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PUBLIC HEARING

33 ARCH STREET

BOSTON REDEVELOPMENT AUTHORITY
SEPTEMBER 13, 1990

TABLE OF CONTENTS

	<u>TAB</u>
Memorandum to BRA Board and Stephen Coyle	1
Fact Sheet	2
Site Plan	3
Resolution of the BRA Board	4
Development Plan and DIP Plan	5
DIP Agreement	6
Cooperation Agreement	7
Cultural Benefits Agreement	8
40J and Article 31A Disclosure Statements	9
Community Letters	10

MEMORANDUM

SEPTEMBER 13, 1990

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: HOMER RUSSELL, ASSISTANT DIRECTOR FOR
URBAN DESIGN AND DEVELOPMENT
JUAN CARLOS LOVELUCK, PROJECT MANAGER
BRIAN DELOREY, DIRECTOR OF MIDTOWN CULTURAL DISTRICT
PEGGY INGS, COORDINATOR, MIDTOWN CULTURAL DISTRICT

RE: PUBLIC HEARING ON 33 ARCH STREET / PDA #39
DEVELOPMENT PLAN AND DEVELOPMENT IMPACT PROJECT PLAN

EXECUTIVE SUMMARY:

This memorandum requests that, with respect to the proposed 33 Arch Street project, the Boston Redevelopment Authority (1) make findings required for the approval of, and approve, a Development Plan for a Planned Development Area and a Development Impact Project Plan pursuant to Sections 3-1A, 26A-3, 26B-3, and 38-12 of the Zoning Code; (2) authorize the Director to petition the Zoning Commission for PDA designation for the project; (3) approve and authorize the Director to execute a DIP Agreement, Cooperation Agreement, and Cultural Facilities Agreement all in substantially the same form as appended hereto, as well as a Land Disposition Agreement, all conditioned upon the issuance of an Adequacy Determination pursuant to Article 31 of the Zoning Code; (4) recommend approval of exceptions and conditional use permits pursuant to Article 38 of the Code; (5) approve minor modifications to the School-Franklin Urban Renewal Plan; (6) authorize the Director to issue an Adequacy Determination pursuant to Section 31-5 of the Zoning Code; and (7) authorize the Director to petition the Zoning Commission for a text amendment to Article 38 of the Zoning Code.

The 33 Arch Street project (formerly 40 Franklin Street, the "Project") is a proposal by the Frank-King Associates Limited Partnership (the "Applicant") to construct an office building with above-grade parking in the Midtown Cultural District. The Project will be constructed over the existing F.W. Woolworth department store and Meyers parking garage and will contain approximately 492,785 square of office space, 5,000 square feet of retail space, and up to 196 new, above-grade parking spaces (the exact number of parking spaces may be lower due to engineering constraints). The proposed height of the Project is

388 feet, and the proposed floor area ratio ("FAR") is 16.7. For your information, a fact sheet and site plan are included behind tabs 2 and 3 of this submission, respectively.

In the past several weeks, the design of the Project has been modified both in height and program in response to the concerns of various civic and neighborhood groups. The height of the Project has been reduced by 3 floors (37 feet) in response to concerns that the previous (425 foot) height was excessive and its impacts on nearby open spaces unacceptable. The reduction in program which corresponds to this height reduction is approximately 50,000 square feet. However, neither the amount of new parking nor the public benefits package has been reduced.

Project Site

The Project site is an irregularly shaped parcel containing approximately 63,920 square feet, bounded by Arch Street and Hawley Street to the east, Hawley Place and Franklin Street to the south, Washington Street to the west, and the properties at 340 Washington Street and 31 Milk Street to the north. A site plan is included behind tab 3 of this submission. The site presently contains the Woolworth department store and the Meyers parking garage. These existing uses are subject to long term lease and will remain. The Project will be constructed over the garage and a portion of the Woolworth store. A vacant portion of the site on Arch Street containing approximately 5,101 square feet is currently owned by the BRA and will be transferred to the Applicant through a Land Disposition Agreement.

Project Description

The Project is planned as a single-phase office tower. The building mass and principal entrance is located on the Arch Street side of the site. This arrangement gives the Project a Financial District presence and reduces the Project's visual and environmental impacts on Washington Street.

The Project will be constructed over the existing Meyers parking garage and a portion of the Woolworth store. The building will contain 21 floors, with the first office floor located 11 stories above the ground floor. The existing parking ramps of the garage will be reconfigured so as to permit the building core to penetrate the garage completely to the first floor lobby. This allows for a conventional office lobby configuration (eliminating the need for shuttle elevators and a transfer floor), and also permits the construction of additional parking spaces within the garage volume.

The exterior of the building will be constructed of granite, limestone, metal, and glass. As part of the Project's site improvements, Hawley Street will be reopened to vehicular traffic. Hawley Street will serve as the only entrance and exit for the parking garage. Improvements to the existing pedestrian

arcade surrounding the Project will be made as well, including upgraded materials and lighting. The office lobby will be designed to serve as a pedestrian concourse between Arch Street and Hawley Street.

The Midtown Cultural District

The Midtown Cultural District Plan (the "MCD Plan") was developed to guide the reemergence of Midtown Boston as a center of commerce, culture, and city life. On January 12, 1989, the BRA adopted the MCD Plan as the portion of the general plan for the City applying to the Midtown Cultural District. On March 6, 1989, the Boston Zoning Commission amended the Code to incorporate Article 38, governing the Midtown Cultural District. Pursuant to Article 38, the Project is located in PDA I of the Midtown Cultural District. PDA I has maximum height standards of 155-350 feet, and maximum FAR standards of 10-14. The Project fulfills many of the objectives of the MCD Plan and substantially complies with Article 38.

o Height

At 388 feet, the Project requires a text amendment to Article 38 of the Code regarding maximum height standards in the PDA I area. Authorization to petition the Zoning Commission regarding this amendment is included in the BRA Resolution located behind tab 4 of this submission. The Project is located within the Midtown Cultural District at its boundary with the Financial District. The Project's 200-foot setback from Washington Street positions it as a transitional building between the mid-rise commercial area of Washington Street and the high-rise Financial District. The proposed height is responsive to the height of nearby Financial District buildings such as the One Federal Street building (Shawmut Bank, 560 feet), the Bank of Boston building (597 feet), and the One Post Office Square building (460 feet), helping to form a transition from Washington Street to the taller buildings which typify the Financial District.

o Massing

The Project's proposed density is FAR 16.7, which requires an exception from the as-of-right FAR of 10 as well as from the PDA I maximum FAR standard of 14. Pursuant to Section 38-8.1, the Board of Appeal may grant, and the Project is eligible for, exceptions of one point of FAR each for ground-level retail space and existing above-grade parking. The remaining FAR of 14.7 will require an additional exception, but is in substantial accord with the PDA I maximum FAR standard. Of the Project's total FAR, over 40% is attributable to above-grade parking (both existing and new). The Project will require an exception from the maximum average floor plate size requirements of Article 38.

The Project's average floor plate is approximately 23,200 square feet, whereas the Article 38 standard is 22,500 square feet.

Public Benefits

Article 38 requires that a Development Plan for a PDA propose a plan for public benefits. The Applicant has proposed, in addition to a \$500,000 child care contribution, an extensive public benefits package totalling \$1 million which furthers the goals of the MCD Plan, and which will be implemented pursuant to the Cooperation Agreement included behind tab 7 of this submission.

o Cultural Facilities

In order to fulfill the MCD Plan's objective of creating additional cultural facilities within the Midtown Cultural District, the Applicant will contribute \$650,000 toward the rehabilitation of the Young Men's Christian Union ("YMCU") theater, located in the YMCU building at 48 Boylston Street. This facility is presently being vacated by the Lyric Stage Theater Company and is in need of a major restoration. A Cultural Benefits Agreement, a draft of which is appended to this submission behind tab 8, will govern the Applicant's cultural facilities contribution toward the YMCU theater restoration.

The Applicant will also make a contribution of \$100,000 to the Wang Restoration Campaign. The Wang Center is one of the Midtown Cultural District's major performing arts facilities and its restoration is consistent with the objectives of the MCD Plan.

o Chinatown

The Applicant will make a contribution of \$50,000 as a planning grant for the Chinatown Community Center. These funds will be used for planning, feasibility, and design studies as needed to implement this project which will serve the Chinatown community.

o Open Space and Public Realm

The Applicant will contribute \$50,000 for visual improvements to the Boston Five Cents Bank Park on Washington Street. BRA landscape staff will work with the Applicant to identify key improvements to upgrade and renovate this important Midtown open space. As part of the Project, the Applicant will reopen Hawley Street to vehicular traffic and improve the existing pedestrian route. Improvements will also be made to the pedestrian way between Arch Street and Hawley Street, which will serve as a connection between the Financial and Midtown Districts, as

well as to the entire pedestrian arcade which surrounds the Project.

o Historic Preservation

As part of its public benefits package, the Applicant will contribute \$100,000 to the Old South Association in Boston, which owns and operates the Old South Meeting House on Washington Street. The Old South Meeting House is the most notable historic structure in the vicinity of the Project, and this contribution will allow it to begin implementing its planned capital improvements plan and/or to meet its ongoing maintenance obligations.

o Cultural Benefits Contingency Fund

The Applicant will contribute \$50,000 to a cultural benefits contingency fund, which shall be applied to worthwhile cultural facilities projects in the Midtown Cultural District which further the goals of the MCD Plan.

o Child care

Because of its physical configuration, the Project cannot accommodate a licensable child care facility within the building envelope. Therefore, the Project requires an exception from the on-site child care provisions of Section 38.8.4. As a result, the Applicant will contribute \$500,000 to existing child care facilities in Chinatown, including the child care facility currently operating at the Quincy School. This contribution may be used to fund capital improvements, subsidize operating costs, or amplify child care services offered. Half of the child care payment will be made at issuance of Building Permit, and half at issuance of Certificate of Occupancy.

o Housing and Jobs Linkage

The Project will generate approximately \$1,988,925 over seven years in housing linkage payments, and approximately \$397,785 over two years in jobs linkage payments. These benefits will be directed primarily to housing projects and job training programs in the Chinatown community.

o Fiscal Impacts

The Project represents an investment of approximately \$208 million in the Midtown Cultural District. The construction of the Project will help to establish the Midtown Cultural District as a first-class office market, which is a key to the Plan's success. Once completed, the Project will generate approximately \$3 million annually in new property taxes for the City. The Project's construction will provide an estimated 2,500 person-years of construction jobs, and

the completed project will accommodate an estimated 2,900 permanent employees.

Development Review Requirements

The Project is subject to the development review requirements as set forth in Article 31 of the Code. The Applicant commenced the development review process by filing a Project Notification Form ("PNF") on October 18, 1988. The BRA issued its Scoping Determination on February 2, 1989. The Applicant filed a Draft Project Impact Report ("DPIR") on November 20, 1989, and the BRA issued its Preliminary Adequacy Determination ("PAD") on May 1, 1990. The options analyzed in the DPIR include buildings larger and smaller than the Project as currently proposed. While the Applicant must submit a Final Project Impact Report ("FPIR") for approval, the DPIR analysis demonstrates that the incremental impacts attributable to the zoning exceptions requested by the Applicant are not burdensome.

PDA and DIP Requirements

The Applicant has requested several actions from the BRA Board necessary for the Project to proceed. Because the Applicant is seeking a PDA zoning designation for the site, a Development Plan is required to be submitted and approved by the BRA Board. In addition, Articles 26A and 26B of the Code require that the BRA Board approve a Development Impact Project ("DIP") Plan which outlines the housing and jobs linkage obligations of the Applicant in connection with the Project. The Development Plan and DIP Plan are combined into a single document included in this submission behind tab 5. A DIP Agreement (in relation to the DIP Plan) and a Cooperation Agreement (in relation to the Development Plan) are also included in this submission behind tabs 6 and 7, respectively. The Applicant requests that the BRA Board authorize the Director to enter into these agreements substantially in the same form as appended hereto, thereby making the provisions of the Development Plan and DIP Plan enforceable.

BRA-Owned Parcel

In addition to the above actions, the Applicant requests that the BRA Board take actions necessary to transfer a 5,101 square foot parcel of vacant land owned by the BRA to the applicant. The Applicant currently holds an easement with the BRA on this parcel to allow vehicles to pass to and from the existing Meyers parking garage.

The BRA is disposing of this parcel in accordance with the requirements of MGL Chapter 30B, including issuance of a Request for Proposals (RFP) soliciting proposals to redevelop the parcel. The Applicant submitted the only proposal received by the BRA in response to the RFP on July 24, 1990.

This memorandum requests that the BRA Board authorize the

Director to enter into a Land Disposition Agreement ("LDA") and any other documents which may be necessary for the sale of this parcel to the Applicant. Disclosure Statements required by MGL Chapter 40J and Article 31A of the Code are included behind tab 9 of this submission for the Board's review.

Minor Modifications to School-Franklin Urban Renewal Plan

To ensure that the requirements of the School-Franklin Urban Renewal Plan ("Urban Renewal Plan") are made consistent with the Project as proposed, minor modifications to the Urban Renewal Plan are required. These modifications do not substantially or materially alter or change the Urban Renewal Plan. These modifications are enumerated in the Resolution included behind tab 4 of this submission.

Conclusion

Approval of the Project by the BRA will be contingent upon the issuance of the Adequacy Determination, the execution of any Cooperation Agreements pursuant to Article 31, the Boston Transportation Department's certification that a Transportation Access Plan Agreement has been executed, and the Office of Jobs and Community Services' certification of compliance with requirements regarding a Boston Resident Construction Employment Plan, and a Memorandum of Understanding and First Source Agreement for the Voluntary Employment Plan.

Attached behind tab 4 is a resolution of the BRA regarding the 33 Arch Street Development Plan and DIP Plan. This document incorporates the extensive public and BRA review process the Project has undergone and presents findings which conclude that the PDA for 33 Arch Street satisfies the PDA Plan criteria as set forth in Section 3-1A and Articles 26A, 26B, and 38 of the Code and that the Development Plan and DIP Plan conform to the general plan for the City as a whole and is not injurious to the neighborhood or otherwise detrimental to the public welfare.

An appropriate vote follows:

VOTED: That the BRA hereby adopts the resolution entitled, "Resolutions of the Boston Redevelopment Authority regarding 33 Arch Street Development Plan and Development Impact Project Plan," dated September 13, 1990, consisting of 27 pages, and that the BRA specifically adopts the Findings incorporated therein, and specifically adopts the Resolves contained in the last five pages of said resolution.

PROPOSED RESOLUTION OF THE BRA REGARDING 33 ARCH STREET PROJECT

Mr. Donlan introduces the following resolution:

WHEREAS, the Old South Meeting House is an important Boston Landmark located in the vicinity of the 33 Arch Street Project;

AND

WHEREAS, the construction of the 33 Arch Street Project will have impacts on its vicinity, including the Old South Meeting House;

THEREFORE, Be it resolved that the staff of the Boston Redevelopment Authority is hereby directed to work with the developers of the 33 Arch Street Project and with representatives of the Old South Meeting House to conclude a Cooperation Agreement, addressing the impacts of construction of the 33 Arch Street Project on the Old South Meeting House, and implementing mitigation measures related to any such construction impacts.

**FACT SHEET
33 ARCH STREET**

9/12/90

DEVELOPMENT TEAM

Developer: Frank-King Associates Limited Partnership
(General Partners: Bowo Associates Limited Partnership and Kingston Washington Associates Limited Partnership)

Development Advisor: Old State Management Corp.

Architects: Shepley Bulfinch Richardson and Abbott, Inc., and Crang and Boake, Inc.

Attorney: Goodwin, Procter & Hoar

PARCEL DESCRIPTION

Description: The site is bounded by Washington, Franklin, Hawley, and Arch Streets, Hawley Place and properties at 340 Washington Street and 31 Milk Street, and is currently occupied by the F.W. Woolworth department store and Meyers parking garage, both of which are to remain.

Parcel size: 63,920 square feet

PROPOSAL

Construction of an office building also containing ground-level retail and above-grade parking. The project will be constructed over the existing Meyers parking garage and partly over the existing Woolworth store. The office building will be clad in limestone, granite, metal, and glass. The office lobby will front on Arch street, and access to the garage will be through Hawley Street, which will be reopened to vehicular traffic.

	<u>Existing</u>	<u>New</u>	<u>Total</u>
Height (*):	10 stories (126 feet)	21 stories (262 feet)	31 stories (388 feet)
FAR:	8.0	8.7	16.7 (**)
Program:			
Office:	0 GSF	492,785 GSF	492,785 GSF
Retail:	134,700 GSF	5,000 GSF	139,700 GSF
Parking:	880 cars	196 cars	<u>1,076 cars</u>

(*) As defined in the Boston Zoning Code

(**) This project is eligible for exceptions for two ratio points (FAR 2) in excess of 14 pursuant to Article 38

COST

Estimated total development cost: \$208 million

SCHEDULE

Estimated Construction Start: 2nd Quarter, 1991
Estimated Construction Completion: 2nd Quarter, 1994

PUBLIC BENEFITS

Cultural: Contributions to the renovation of a Midtown theater facility (the YMCU theater) and to the Wang Center

Day Care: Contribution of \$500,000 for off-site day care facilities in Chinatown

Open space: Contribution for visual improvements to the Boston Five Cent Bank Park

Historic: Contribution to the Old South Meeting House for maintenance/capital improvements

Linkage:

Housing: \$1,988,925 over seven years to be targeted to Chinatown housing

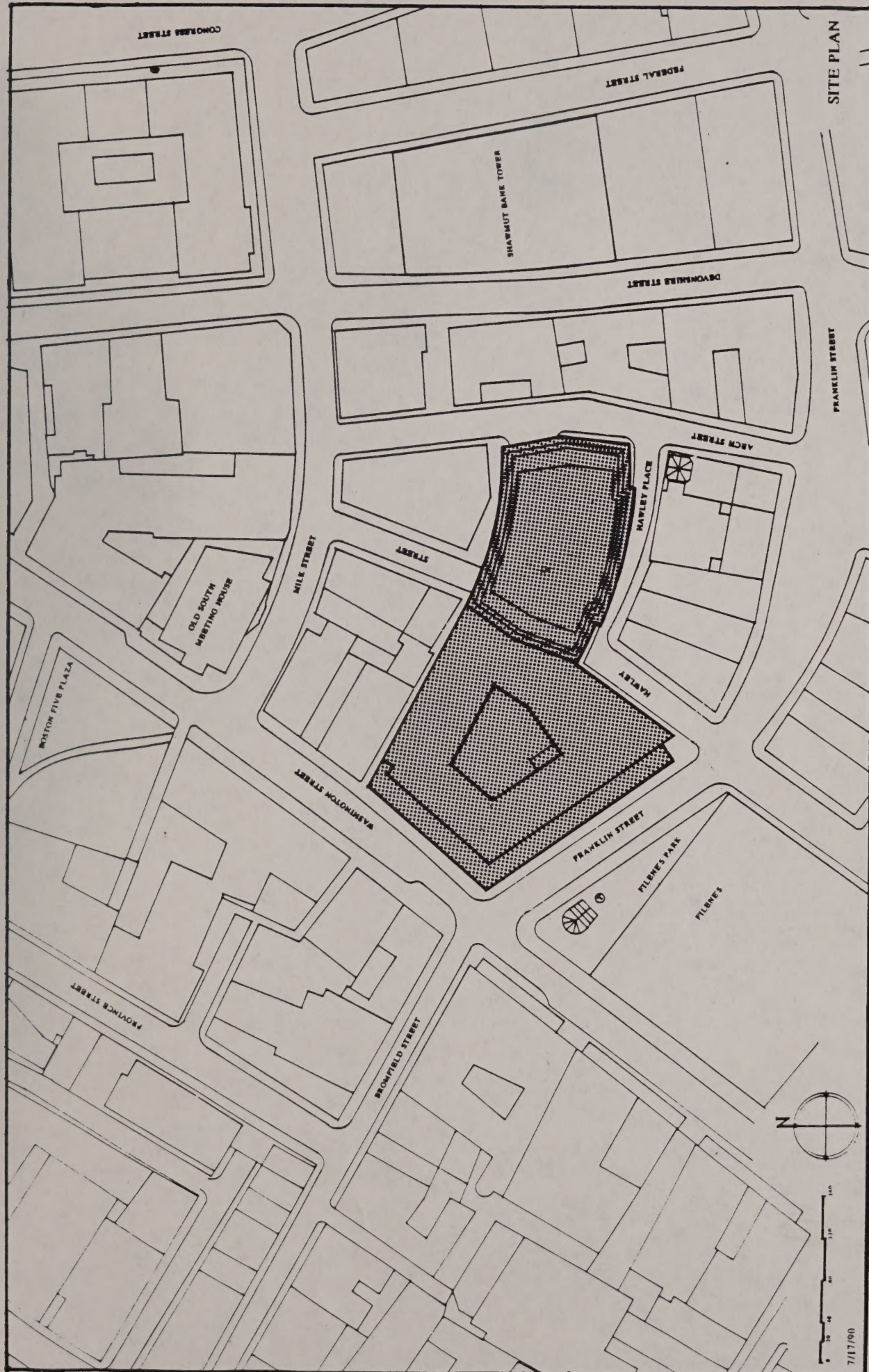
Jobs: \$397,785 over two years to be targeted to Chinatown job training programs

Fiscal:

Construction jobs: 2,500 person-years (estimated)
Permanent jobs: 2,900 employees (estimated)
Annual taxes: \$3 million in new property taxes (estimated)

ZONING

The project is located in the area designated PDA I in Article 38 of the Boston Zoning Code. The project has been designed generally in accordance with the Midtown Cultural District Plan and zoning regulations contained in Article 38. The project will require a text amendment to Article 38 regarding height. After approval by the Zoning Commission of the text amendment, map amendment, and Development Plan for a Planned Development Area, zoning exceptions from the Board of Appeal will be required for height, FAR, average floor plate size, street wall height, off-street loading, parapet setback and on-site child care requirements.



33 ARCH

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP

ARCHITECTS: SHEPLEY BULFINCH RICHARDSON AND ABBOTT

7/17/90

RESOLUTIONS OF THE BOSTON REDEVELOPMENT AUTHORITY
REGARDING THIRTY-THREE ARCH STREET
DEVELOPMENT PLAN AND DEVELOPMENT IMPACT PROJECT PLAN

1. THE ONGOING BRA APPROVAL PROCESS

WHEREAS, Frank-King Associates Limited Partnership (the "Applicant") a Massachusetts limited partnership formed in 1985, filed an application as of September 13, 1990, seeking from the Boston Redevelopment Authority (the "BRA") and the Boston Zoning Commission (the "Commission") approval of a Development Plan and Development Impact Project Plan (together, the "PDA/DIP Plan") for a planned development area to be designated on a parcel of land in Boston's Midtown Cultural District generally bounded by Washington, Franklin, Hawley and Arch Streets (the "Site") in connection with a proposed mixed-use development. The proposed planned development area is located within the Midtown Cultural District and, more specifically, is within the portion of such District identified as "PDA-I."

Section 3-1A of the Boston Zoning Code (the "Code") sets forth procedures for the designation of planned development areas. A threshold step in the process is the approval by the BRA of a development plan for a project area. A development plan establishes limits of development to be permitted in a project area and insures the provision of certain public amenities. Pursuant to Section 3-1A(a) of the Code, a development plan must "set forth the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the area, densities, proposed traffic circulation, parking and loading facilities, access to public transportation, [and] proposed dimensions of structures. . . ." The foregoing items are hereinafter referred to as the "Plan Criteria."

Similarly, Sections 26A-3 and 26B-3 of the Code establish requirements for a development impact project. Section 26A-3 requires that a development impact project plan contain the same information as a development plan. In addition, a development impact project plan must also set forth the projected number of employees.

The PDA/DIP Plan submitted by the Applicant on September 13, 1990 represents a crucial stage in the planning process for the Project (as hereinafter defined). Without BRA approval of the PDA/DIP Plan, the Applicant cannot proceed to the next stage of design development and the final stage, at which the final plans and specifications are submitted to the BRA for final design review approval and certification as to consistency with the PDA/DIP Plan. If the BRA determines that the PDA/DIP Plan meets the Plan Criteria, that it "conforms to

the general Plan for the city as a whole and that nothing in such plan will be injurious to the neighborhood or otherwise detrimental to the public welfare", and that it also meets the Midtown Cultural District PDA Criteria (as hereinafter defined), the BRA may after public hearing approve the PDA/DIP Plan. The BRA must make the same determinations (other than as to the Midtown Cultural District PDA Criteria [hereinafter defined]) before approving the development impact project plan.

Section 38-12 of the Code sets forth further criteria for a development plan relating to a proposed planned development area within the Midtown Cultural District, including the following: the development plan must be "in Substantial Accord with the provisions of this section and Sections 38-14 and 38-16 [relating to certain public benefit criteria and general design and environmental impact standards] . . . and [must conform] to the Midtown Cultural District Plan and the general plan for the city as a whole." Each proposed project described in the development plan must be "in Substantial Accord with the building height and FAR standards set forth in Table A of [Article XXXVIII] . . ." and the BRA must find that, "on balance, nothing in [the development plan] will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens. . . ." (collectively, the "Midtown Cultural District PDA Criteria"). In addition, the proposed development plan must include a plan for relocation assistance for any resident and any local neighborhood retail business store, grocery store or eating place with street frontage which will be displaced by the proposed project (Section 38-17). If the proposed development plan includes substantial rehabilitation of an existing theater, historic building or landmark, the Applicant must enter into an agreement as to such rehabilitation (Section 38-25).

As noted above, even after the PDA/DIP Plan is approved, the BRA review process will continue. All drawings and specifications will be subject to design review and approval by the BRA. In addition, in order to obtain a building permit, all final plans and specifications must be submitted to the BRA for a determination that they are consistent with the PDA/DIP Plan. If the final plans and specifications are not consistent with the PDA/DIP Plan, they cannot be approved unless the PDA/DIP Plan is amended, after public notice and hearing.

2. THE PRESENT SITE IS SIGNIFICANTLY UNDERUTILIZED AND UNDERDEVELOPED

WHEREAS, the Site is located in Boston's Midtown Cultural District and is a vital link between the City's Financial District and the retail shopping area of Downtown Crossing. The Site includes approximately 63,920 square feet. (A more

precise description of the Site is contained in the PDA/DIP Plan.) At present, there are two (2) existing structures on the Site, both of which are described and documented in detail in the DPIR (defined below) for the Project which has been submitted to the Authority. Both existing structures will be retained and incorporated into the Project.

Currently, the Site is a significantly underutilized and underdeveloped area which returns to the City relatively little in terms of tax revenue, employment or other public benefits, and makes no contribution other than the provision of retail shopping at the Woolworth's department store and of parking to the theatrical and cultural uses of the Midtown Cultural District.

The BRA finds that, if the PDA/DIP Plan is not approved, the Site will continue as an underutilized area; that the existing structures and the Site's uses will remain essentially unchanged; and that the potential public benefits from the Site, particularly the cultural benefits to the Midtown Cultural District proposed as part of the Project will not be fully realized.

3. THE APPLICANT'S PDA/DIP PLAN

WHEREAS, the Applicant's PDA/DIP Plan consists of _____ pages of text plus attachments designated Exhibits A through D. In connection with its submission of the PDA/DIP Plan, the Applicant has also submitted to the BRA Project drawings, a public benefits package summary, a schedule of zoning exceptions, a list of owners and abutters, a list of meetings with Interested Parties and a list of Project consultants. Although these documents are not part of the PDA/DIP Plan, they set forth additional information relating to the Project. Similarly, the Applicant has also submitted proposed forms of a Development Impact Project Agreement, a Cooperation Agreement, a Cultural Benefits Agreement and a Land Disposition Agreement in connection with its acquisition of a parcel of land at the corner of Arch and Hawley Streets (collectively, the "BRA Agreements"). After reviewing these forms of agreements, the BRA is satisfied that the BRA Agreements will insure compliance with the PDA/DIP Plan and the provision of the public benefits and mitigation measures referred to herein and, with such changes as may be agreed to by the Director of the BRA and the Applicant, will authorize the Director to execute the BRA Agreements.

The BRA finds that the Applicant's PDA/DIP Plan adequately sets forth the required elements or Plan Criteria of Sections 3-1A, 26A-3, and 38-12 of the Code, including the proposed location and appearance of structures, open spaces and landscaping, proposed uses of the Project Site, projected

number of employees, densities, proposed traffic circulation, parking and loading facilities, access to public transportation and proposed dimensions of structures.

4. THE PROJECT

WHEREAS, as described in the PDA/DIP Plan, the project (the "Project") is a first-class mixed-use development consisting of approximately 1,067,885 square feet of retail, office and parking space. The Project will entail the extension of the existing Meyer's parking facility and replacement of the existing entrance and exit ramp with a rectilinear ramp located at Hawley Street, and construction of a 21-story office building above the parking facility. The Project will contain approximately 598,085 square feet of new development, including approximately 487,285 square feet of office space, approximately 5,000 square feet of office lobby retail space, approximately 5,500 square feet devoted to a lobby and pedestrian concourse, and approximately 100,300 square feet devoted to a parking facility. The Project will also provide parking for approximately 1,084 vehicles (including approximately 196 new spaces) on six (6) levels above grade, and will provide a pedestrian concourse through the office lobby to allow circulation both around and through the Project. The BRA will require, as part of the Project, that the hours of operation of the parking facility be extended so that parking spaces on the Site can be used by retail patrons, and theater district patrons and residents of Chinatown during evening and weekend hours.

The Project will allow the City to maximize the use of the presently underdeveloped Site for a combination of cultural and downtown commercial uses and will thus accommodate the City's need for controlled physical growth and the revitalization of cultural uses in the Midtown Cultural District. The BRA finds that the Project will permit optimal utilization of the Site for the combination of cultural and commercial uses without significantly overburdening the City's relatively small and geographically confined Financial and Midtown Cultural Districts.

Shepley Bulfinch Richardson and Abbott/Crang Boake (the "Architect") have been engaged to provide architectural services for the Project. Shepley, Bulfinch is a well-known national architectural firm, founded in Boston in the nineteenth century. Its founding partners included Henry Hobson Richardson, widely regarded as one of the most influential of nineteenth century American architects. The Architect has designed the Project to be compatible with the buildings on neighboring blocks and with other recent buildings of similar scale in the City. The office building may also include granite or limestone at the base.

The BRA finds that, from a design standpoint, the Project is one in harmony with the design philosophy and history of the Midtown Cultural District area; that massing, setbacks and materials are coordinated to relate to those of the surrounding neighborhood and the midtown area; and that the Project will be of a height and gross floor area not in excess of those permitted in the PDA/DIP Plan. The BRA further finds that the Project will provide the Midtown Cultural District with much needed cultural benefits and will serve as an important link between Downtown Crossing and the Financial District, and will provide the City with appropriate office and retail space and public parking facilities, while retaining the historical and architectural integrity of the area.

5. THE PUBLIC REVIEW PROCESS AND EVOLUTION OF THE PROJECT.

WHEREAS, the Thirty-Three Arch Street project has undergone over five years of design and planning meetings with the BRA staff, other city and state agencies, community and civic interest groups, and real estate and financial businesses and organizations within the City of Boston. The Project's design has evolved through numerous changes reflecting the complex interplay between economic, physical, governmental and community planning objectives, including all of the detailed planning involved in establishing new zoning regulations for development of the Midtown Cultural District. By means of a thorough and iterative process involving all sectors of the Boston community, the Project program and design have evolved into a balance between these diverse objectives. Over this five-year span, the public review process has resulted in the modification of the initial proposal for a development with a total zoning program of approximately 575,000 square feet of office space to the current proposal, which provides for approximately 487,285 square feet of office space, approximately 5,000 square feet of retail and approximately 5,500 square feet devoted to a lobby pedestrian concourse, as well as an extension of the existing parking facility; and a reduction in the building zoning height from a maximum over 500 feet to 388 feet. The office building has been relocated toward the Financial District, and is set back two hundred (200') and one hundred twenty (120') feet, respectively, from Washington and Franklin Streets. As a result of this process, urban design changes have also been made to strengthen and reinforce historic patterns of buildings and streets and to mitigate detrimental environmental effects the Project might otherwise have had on the area.

Early in 1985, concepts for the Project began taking shape in accord with the strategic planning guidelines for the Midtown Cultural District promulgated by the BRA.

In 1986, the City began a comprehensive planning initiative to re-zone a large portion of the downtown area through an

amendment to the Boston Zoning Code. The result of this planning initiative was the adoption in September, 1987, of Article 27D of the Code, creating the Downtown Interim Planning Overlay District (IPOD). The purposes of this article were to channel new development toward underutilized sites; to encourage new development in areas accessible to public transit; to provide a predictable, clear, and understandable process for the public review of new development; to foster an economy that promotes opportunity for Bostonians by creating new jobs and by expanding job training opportunities; to protect existing residential development and encourage new residential development that is affordable to all segments of the community; to protect the City's historic resources; to protect and enhance the architectural character of the downtown; to improve traffic access and circulation; to create active pedestrian and street life; to protect and improve air and water quality; to encourage mixed-use development; to provide for appropriate transitions in scale and character between established districts and new development; and to implement interim land use measures. Under the Downtown IPOD regulations, eleven separate planning subdistricts were established in the downtown that would undergo a comprehensive community planning process.

The Midtown area became the first of the eleven subdistricts within the Downtown to begin comprehensive, community based re-zoning efforts. In addition, planning efforts were already underway within Boston's performing arts community to provide a permanent location for Boston's not-for-profit performing arts companies within this district. With the joint participation of the arts groups, the Mayor's Office of Arts and Humanities and the BRA, a draft of the Midtown Cultural District ("MCD") Plan was formulated in 1987 identifying the MCD boundaries, the cultural facilities components desired, the zoning mechanisms needed to provide the economic development catalysts, and the design and planning controls necessary to preserve the district's character. The Project was revised to meet the objectives of the MCD Plan by providing a mix of commercial uses, performing arts facilities, and public amenities at the heart of the new district.

By mid-1987, with the design guidance of the BRA, a preferred alternative was developed based on a maximum site density between FARs of 12.0 and 14.0. These densities were consistent with the maximum density limits for Planned Development Areas ("PDA's") being considered for the proposed MCD Zoning Regulation. In order to address the concerns of the community, the Project development team began a program of informal meetings with interested groups in the Winter of 1986. The process was designed to introduce the Project to interested groups representing a broad spectrum of community issues, from concerns of the adjoining community to objectives

for historic preservation. By introducing the Project design at an early, conceptual stage, issues and concerns were addressed through fundamental design and program changes. Many aspects of the Project were identified for alternative study, or, in some cases, outright modification. In all, over twenty meetings were held with interested individuals and groups between January, 1986 and the date that the Project was first announced publicly in October, 1988.

By September, 1988, a series of major design changes had been made to the program and massing of the Project. Concurrent with the Project design and program changes, initial planning efforts for the Midtown Cultural District were nearing completion. On October 18, 1988, the first public announcement of the Project was made. The formal project review process was initiated by the filing of a Project Notification Form ("PNF") with the BRA and an Environmental Notification Form ("ENF") with the Massachusetts Executive Office of Environmental Affairs ("EOEA") using the joint city/state process outlined by Article 31 of the Boston Zoning Code. These documents outlined the programmatic parameters and conceptual design for the Proposed Project. Subsequently, on February 2, 1989, the BRA, acting on public comments received, issued a Scoping Determination specifying the extent of analysis required to determine the environmental effects resulting from the proposed Project. The Scoping Determination also asked that appropriate mitigation measures be identified to minimize unacceptable levels of impact. In addition, alternative design scenarios were specified, as well as baseline conditions, for the comparative analysis of environmental effects.

The Midtown Cultural District Plan was released to the public in the Summer of 1988. At this point, the MCD planning studies had identified the Project site as one of four major target sites which could accommodate increased development height and density and which could generate the economic returns necessary to support the development of major cultural facilities in the district. These facilities had been identified by local performing arts groups in coordination with the Mayor's Office of Arts and Humanities and were part of a larger set of development objectives for the rejuvenation of the district. Working with the BRA and the community groups, a program of cultural and other public benefits was identified for the Project.

Acting on the Scoping issues identified by the BRA, as well as design issues identified in the community outreach meetings, additional design modifications were made.

During further meetings with the BRA and community groups, concerns were raised over potential environmental impacts from the proximity and height of the office building to the Old

South Meeting House and Boston Five Cents Savings Bank Park. The Project's design was again modified to respond to those concerns. Presentation of this modified design was made to the Midtown Cultural District Task Force (the "Task Force") in September, 1989, together with supporting analyses of the Project's urban design and preliminary environmental effects.

By September, 1990, most of the community concerns and planning objectives outlined in the MCD Plan had been addressed. Meetings with the BRA, the Task Force and the community groups had established the program of public benefits which the project would provide. Major program and master plan design changes had been made to establish the preferred urban design and massing of the Project. At this point, schematic design of the Project's components began, together with the full scope of environmental analyses for the Project and the baseline conditions.

The Applicant submitted a combined Draft Project Impact Report ("DPIR") and Draft Environmental Impact Report ("DEIR") to the BRA on November 21, 1989, and to the Secretary of the Massachusetts Executive Office of Environmental Affairs on November 15, 1989. A Project Notification Form was filed on October 18, 1988. Notice of the submission to the BRA was published in the Boston Herald on November 27, 1989, and notice of submission to the EOEa was published in the Environmental Monitor on November 24, 1989.

The BRA finds that, as a result of these five years of citizen involvement and public review, numerous changes have been made in the Project demonstrating the Applicant's consideration of design, aesthetics, community concerns, public benefits, environmental impacts and scale. The BRA further finds that, out of this public review, through the diligent and good faith cooperation of the Applicant, a better Project has evolved, which represents a culmination of the combined needs of the City, the artistic and cultural community, Boston businesses and the community at large.

6. THE "GENERAL PLAN FOR THE CITY AS A WHOLE" AND THE MIDTOWN CULTURAL DISTRICT PLAN

WHEREAS, in approving a development plan or a development impact project plan, the BRA must find "that such plan conforms to the general plan for the city as a whole. . . ." No specific "general plan" is referred to in Section 3-1A or 26A-3 of the Code, but Section 38-2 recognizes the Midtown Cultural District Plan adopted by the BRA on January 12, 1989 (as amended from time to time, the "Midtown Plan") as the general plan for the Midtown Cultural District and "as the portion of the general plan for the City of Boston applicable to the Midtown Cultural District."

On March 11, 1965, the BRA adopted as the official master plan of the City for the next decade the "1965/1975 General Plan for the City of Boston and the Regional Core (the "1965-1975 Plan"). In the intervening twenty-two years, no other formal city-wide plan has been adopted, although other plans and studies have been conducted, including the BRA study entitled "Planning for Boston's Next Decade of Development 1980-90." Neither the 1965-1975 Plan, nor any other single document frozen in time, has constituted "the general plan" for the City. Rather, "the general plan for the city as a whole" has been a continually evolving concept, evidenced by development precedents and existing zoning ordinances, until the adoption of the Midtown Plan as the first component of a detailed plan for the City as a whole.

The Midtown Plan provides for the balanced growth of a vibrant mixed-use community within the Midtown Cultural District, including residential, office, retail, hotel and cultural uses; the enhancement of the area's open spaces; a response to the needs of Chinatown both for affordable housing and for neighborhood commercial space; the preservation of historic buildings within the area; the improvement of the area's transportation systems (including parking facilities); and protection of "the district's historic scale and character through land use and urban design guidelines that ensure that new development is in character with the district." The Midtown Plan proposes to direct downtown office development into this underutilized area, which will serve as a link between the traditional office centers of the Financial District and the Back Bay, and to enhance and expand the retail core of Downtown Crossing, including providing neighborhood business opportunities for Chinatown residents. Specific emphasis is placed upon restoring and creating cultural facilities within the Midtown Cultural District. The urban design guidelines of the Midtown Plan replace the concept of a "High Spine" of towers stretching from the Financial District to the Back Bay with a "Skyline Concept" consisting of clusters of towers separated by traditional, smaller structures in a manner which is sensitive to wind, shadow, and other environmental concerns as well as concerns for preserving the historic character of the district. The Thirty-Three Arch Street project is specifically identified as the primary link between the Financial District and Downtown Crossing.

The goals and objectives of the Midtown Plan are further set forth in Section 38-1 as follows:

" . . . to direct downtown development in a way that promotes balanced growth for Boston; to prevent overdevelopment of the Financial District and the Back Bay by promoting mixed-use development in Midtown; to revitalize Midtown as the region's center for performing

and visual arts by rehabilitating historic theaters and creating new cultural facilities for the city's non-profit arts community; to protect the quality of life and provide for expansion of the thriving Chinatown neighborhood by creating affordable housing and business opportunities, and by controlling institutional expansion in the area; to preserve Boston's historic resources and public open spaces, which provide enjoyment to all residents and visitors and which increase land values in their proximity, by virtue of historic, aesthetic, and environmentally beneficial qualities; to provide new and expanded facilities for community services; and to create a new residential neighborhood downtown by encouraging the development of housing which is affordable to all segments of the community."

The BRA finds that by turning a significantly underutilized site in the Midtown Cultural District into a first-class mixed-use development, the Project will convert an underdeveloped downtown site into a physical and financial asset, will provide a crucial link between the Financial District and Downtown Crossing, will serve as a centrally-located focus to provide unity to the City's skyline while assuring a smooth transition to and integration with the historic scale of the adjacent districts, and will improve land values and provide economic stimulus for balanced growth.

The BRA further finds that by using materials and designs which are compatible with the surrounding buildings and with traditional Boston design concepts, the Project will strengthen the Midtown Cultural District without compromising the historic and architectural integrity of the area.

The BRA further finds that by providing the cultural benefits proposed as part of the Project, the Project will contribute to the revitalization of the District as the region's center for performing and visual arts; that by implementing the Neighborhood Job Opportunities Agreement and giving financial support to the Chinatown Community Center, the Project will provide neighborhood business opportunities for Chinatown residents and will enhance and expand the existing retail core of Downtown Crossing; that by implementing the proposed visual improvements to the Boston Five Cents Savings Bank Park and by making contributions for the renovation of Old South Meeting House, the YMCU Theatre, and Wang Center, the Project will attract both business travelers and visitors to enjoy the historic and cultural attractions of the District and of the City as a whole and to contribute to the economic revitalization of the area; that the Project will effectively develop its presently underutilized site which is accessible to many forms of public transit (as noted below); that through jobs linkage payments and ensuing construction, the Project

will foster an economy that promotes opportunity for Bostonians by creating new jobs and by expanding job training opportunities; that through housing linkage payments and the contribution for the provision of daycare, the Project will help to protect the quality of life and create affordable housing for all segments of the community; that with its responsiveness to and cooperation with the BRA, community groups, and other interested persons in the design review of the Project, the Applicant is protecting and enhancing the architectural character of the district; that both the interior and exterior design of the Project's retail areas on the street level and the pedestrian concourse in the lobby of the office building will create more active pedestrian and street life in the area; and that the office, retail and parking uses of the Project are consistent with the objectives of Article 38 of the Code and the Midtown Plan.

The BRA further finds that the Project conforms to the Midtown Cultural District Plan and also "conforms to the general plan for the city as a whole."

7. THE PROJECT SATISFIES THE MIDTOWN CULTURAL DISTRICT
PDA CRITERIA

WHEREAS, in order to approve the PDA/DIP Plan, the BRA must find that it satisfies the Midtown Cultural District PDA Criteria set forth in Section 38-12 of the Code and summarized in Resolution No. 1 above.

The PDA/DIP Plan includes a plan for public benefits, consistent with the Midtown Cultural District Plan, which includes the following: contributions to the Chinatown Community Center; contributions for the rehabilitation of the YMCU Theatre, the Wang Center and the Old South Meeting House, and the visual improvements to the Boston Five Cents Savings Bank Park; the contribution of housing and jobs linkage payments; and additional public benefits relating to jobs and procurement, transportation benefits, enhancement of the pedestrian environment, neighborhood business opportunities, childcare, historic preservation, and increased tax revenues and other economic benefits, all as more particularly described in Resolution No. 8 below. Accordingly, the BRA finds that the PDA/DIP Plan is in substantial accord with the Public Benefit Criteria of Section 38-14.

The PDA/DIP Plan and the Schematic Designs and Materials submitted to the BRA have incorporated and comply with the General Design and Environmental Impact Standards set forth in Section 38-16, as set forth in detail in Resolution No. 8 below. The Shadow Criteria are satisfied by the siting of the office building in a manner which minimizes its impact on the Boston Common, the Old South Meeting House and the Boston Five

Cents Savings Bank Park. The Project will not shade an area in excess of one acre at either the Old South Meeting House or the Boston Five Cents Savings Bank Park beyond the two-hour period specified in Section 38-16.1. The Wind Criteria are satisfied since, as described in the DPIR/DEIR, there is no significant difference between the wind impacts of the Project and those of the so-called "No-Build Option." The Transportation Access Criteria and requirements to enhance the pedestrian environment are satisfied by the accessibility of the Project to mass transit systems, the relocation of the entrance and exit to the parking facility from Arch to Hawley Street; the reopening of Hawley Street to vehicular and pedestrian traffic; the creation of a lobby and pedestrian concourse on the ground floor of the office building to create a mid-block pedestrian connection between the Financial District and Downtown Crossing; and the renovation of pedestrian arcades to facilitate the flow of pedestrian traffic. The Skyline Plan is consistent with the specific description of the Project in the Midtown Plan. The design review process of the Boston Civic Design Commission has been initiated. Accordingly, the BRA finds that the Development Plan is in Substantial Accord with the General Design and Environmental Impact Standards of Section 38-16, including shadow criteria, wind criteria, transportation access, skyline plan, landmarks and historic buildings, and enhancement of the pedestrian environment.

As amended, the Code will allow a zoning height of 388 feet within PDA-I. The office building will not exceed the zoning height allowed under Section 38.7 of the Boston Zoning Code (as amended). The height of the parking facility extension will not exceed the existing height of 126 feet. The combined floor area ratio for the Project will be 16.71 (including a total FAR of 6.81 for the parking facility and extension). (As set forth in the Development Impact Agreement, the final square footage calculations may vary as the design is developed during the design review process. Any such changes, however, will be consistent with zoning requirements and the building dimensions that are approved by the Board of Appeal as part of the PDA approval for the Project.) In no event shall the exterior dimensions of the buildings comprising to Project exceed those described in the Development Plan (including the exhibits thereto). For these reasons, the BRA finds, and recommends that the Zoning Board of Appeal find in accordance with Section 38-7, that the Project's height and floor area ratio are each in Substantial Accord with its as-of-right zoning height and floor area ratio; that the height and massing of the office building are compatible with the surrounding area; that the proposed excess height and floor area ratio are in harmony with the general purpose and intent of the Code; and that the Applicant has complied with the Development Impact Project Requirements of the Code.

The Project includes the contribution of \$500,000 for the provision of daycare facilities off-site. Although Section 38-18 of the Code provides for a minimum amount of on-site facilities for any proposed project, the BRA finds, and recommends that the Zoning Board of Appeal find, that the location and configuration of the existing structures and the uses at the Site make location of the childcare facilities off-site appropriate and relate to unique characteristics in the Site which are not applicable to the Midtown Cultural District as a whole, and that the Applicant has satisfied the requirements of Section 38-18 of the Code.

Accordingly, the BRA finds that the Project is in Substantial Accord with the building height and floor area ratio standards set forth in Section 38-11 and Table A to Section 38-12, and satisfies the requirements relating to the provision of childcare facilities in Section 38-18 of the Code.

For the reasons discussed in Resolutions numbered 6 and 8, respectively, the BRA also finds that (i) the Development Plan conforms to the Midtown Cultural District Plan and the general plan for the City as a whole, and (ii) on balance, nothing in the Development Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens.

Accordingly, the BRA finds that the PDA/DIP Plan satisfies all of the Midtown Cultural District PDA Criteria.

8. THE PROJECT IS NOT "INJURIOUS TO THE NEIGHBORHOOD OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE, WEIGHING ALL THE BENEFITS AND BURDENS"

WHEREAS, in order to approve the PDA/DIP Plan, the BRA must find that "on balance, nothing in such plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens. . . ." This standard, as set forth in Section 38-12 of the Code, elaborates upon the standard set forth in Section 3-1A (that "nothing in [a proposed Planned Development Area plan] will be injurious to the neighborhood or otherwise detrimental to the public welfare") by incorporating the balancing approach required by the Supreme Judicial Court in Manning v. Boston Redevelopment Authority, 400 Mass. 444 (1987). As the Court noted in that case, the planned development area provisions of the Code were intended to "establish a more flexible zoning law" in order to encourage well-planned and thoroughly reviewed large scale private development projects on underutilized sites. These provisions contemplate a balancing of relative benefits and burdens, acknowledging that such large scale development projects inevitably cause some burdens but realizing that in a well-conceived and well-designed project such burdens are outweighed by public benefits generated by the project.

Based on the legislative history of Sections 3-1A, 26A-3, and 38-12 and upon its consistent administrative practice for nearly two decades, as well as upon the mandate of Manning, the BRA will balance a proposed plan's possible adverse effects and other matters claimed to be detrimental to the public welfare against the benefits to the neighborhood, the City, and the public. It will approve only those which on balance are not injurious to the neighborhood or otherwise detrimental to the public welfare weighing all the benefits and burdens.

With respect to this Project, the balance is tipped heavily in favor of benefits to the neighborhood, the City and the public. As an integral part of the design review process, significant revisions have been made to the Project's design in order to mitigate or eliminate adverse environmental and other impacts. Each successive scheme presented to the BRA over the past five years was developed to respond to specific concerns of the BRA, community groups, and other public agencies with regard to potential impacts. Reduction of the height, density and mass of the Project has resulted in a concomitant reduction in potential impacts. In addition, urban design changes have been made to strengthen historic street patterns and create opportunities for pedestrian amenities; heights and mass have been reduced to minimize shadow and wind impacts; the materials used in the Project will be compatible with those of the existing buildings surrounding the Project; and public amenities have been added to meet the objectives of the Midtown Plan. Each of these examples demonstrates the significant amount of mitigation included in the current Project design, which has resulted in a Project with limited potential for negative impacts.

The Project does, however, have significant potential for further positive impacts. Set forth below are those benefits which will inure to the public as a result of the Project. Section 38-12 specifically mandates consideration of the factors identified in Sections 38-14 and 38-16. Those factors identified in Section 38-14 are addressed under the categories entitled "Housing", "Cultural Facilities" and "Historic Preservation", while those factors identified in Section 38-16 are addressed under the category "General Design and Environmental Impact Standards" and other categories referenced therein.

The Project's Benefits

Housing

The Applicant and the BRA will enter into a Development Impact Project Agreement (the "DIP Agreement") which will require the Applicant to provide linkage payments of \$5.00 for each square foot of gross floor area in excess of 100,000

square feet devoted to Table D uses, as defined in Article 26A of the Code. Although the exact gross floor areas of the Buildings to be devoted to such uses have not been finally established, based upon the proposed schematic drawings for the Project submitted with the Plan, the total gross floor area devoted to such uses will approximate a total of 497,785 square feet. This translates into approximately \$1,988,925 in linkage payments to be contributed to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston.

Jobs and Procurement; Fiscal Benefits

The Project will generate construction-related jobs of approximately 2,500 person-years and approximately 2,900 permanent jobs. The Project involves the investment of \$215 million dollars in the Midtown Cultural District to provide the catalyst for its revitalization.

In addition to the above-described housing linkage payments, the DIP Agreement will also require the Applicant to provide linkage of an additional \$1.00 per square foot of gross floor area in excess of 100,000 square feet devoted to Table E uses, as defined in Article 26B of the Code (or approximately \$397,785) earmarked for job training.

The Applicant has submitted to the Mayor's Office of Jobs and Community Services ("OJCS") a Boston Residents Construction Employment Plan, which sets forth its plans for insuring that the contractors for the Project will use best efforts to reserve at least fifty percent (50%) of the total employee worker hours in each trade for Boston residents; at least twenty-five percent (25%) of the total employee worker hours in each trade for minorities; and at least ten percent (10%) of the total employee worker hours in each trade for women.

The Applicant has also submitted to OJCS an Employment Opportunity Plan and First Source Agreement which provide for the Applicant's good faith efforts to achieve a goal that fifty percent (50%) of the permanent employment opportunities created by the Project will be made available to Boston residents, including residents affected by the Project. The Boston Residents Construction Employment Plan and the Employment Opportunity plan and First Source Agreement together are referred to herein as the "OSCS Agreements."

Cultural Facilities

The Project includes contributions for the rehabilitation of the Wang Center and the YMCU Theatre in the Midtown Cultural District. The Applicant's obligations to make such contributions are outlined in the Cultural Benefits Agreement.

The Project also includes the creation of new visual arts opportunities in the public areas of the Project, as set forth in the Cooperation Agreement.

General Design and Environmental Impact Standards

As noted in Resolution Nos. 5 and 7 above, the design of the Project has undergone significant revisions and evolution in order to address environmental and other public and community concerns, including the General Design and Environmental Impact Standards set forth in Section 38-16. The purpose of these Standards is to "maintain and improve the quality of life in the Midtown area." Specific criteria are set forth for shadow and wind impacts, transportation access, the Skyline Plan, landmarks and historic buildings, and enhancement of the pedestrian environment. For the reasons set forth herein, the BRA finds that the Project satisfies these Standards.

The Shadow Criteria require each proposed project to be arranged and designed in a manner to assure that no shadows are cast on any designated shadow impact area for more than two hours from 8:00 a.m. through 2:30 p.m., on any day from March 21 through October 21 of any year, except as may be cast by existing structures or structures permitted as-of-right, with certain exceptions as to the Boston Common. The Project satisfies these criteria by siting the office building at considerable distance from Franklin and Washington Streets to minimize the shadow impact on the Old South Meeting House and the Boston Five Cents Savings Bank Park. The aggregate shadow impact of the Project is in compliance with the criteria guidelines specified above.

The Wind Criteria require buildings to be shaped, or other wind-baffling measures to be taken, to avoid excessive and uncomfortable downdrafts on pedestrians, and so that specific ground-level ambient wind speeds will not be exceeded. As discussed in detail on the DPIR/DEIR, there is no significant difference in wind impacts between the Project and the continuation of existing uses on the Site (taking into consideration additional off-site development projects expected to occur in the vicinity of the Project in this decade).

The Transportation Access Criteria require demonstration that the location of the Project, including the related vehicular access and circulation and the proximity to other transportation systems, is suitable for the increased floor area. Each Project is also required to emphasize use of mass transit and limit its impact on traffic congestion. As discussed in detail below, the Project clearly satisfies these requirements. The Project is highly accessible to all available mass transit systems existing in the City of Boston,

including direct access to two of the MBTA subway lines. To ameliorate current vehicular traffic congestion in the general vicinity of the Project, the entrance and exit to the existing parking facility has been relocated to Hawley Street to decrease the current burden on Arch Street. In addition, the design of the street-level retail spaces, office lobby and internal and external pedestrian arcades facilitates the flow of pedestrian traffic and also preserves historic street patterns.

The Skyline Plan requires each proposed project to be generally consistent in height and form with the modified high spine/cluster skyline plan described in the Midtown Plan. A minimum distance of 125 feet is required between separate buildings exceeding a height of 155 feet. The Project is identified in the Midtown Plan as a focal point of the skyline within the Midtown Cultural District, and is consistent with the Midtown Plan. The Project will provide a smooth transition between the development within the City's Financial District and the smaller development of Downtown Crossing and will integrate the office building into the historic scale of the district. The Project remains "generally consistent in height and form with the modified high spine/cluster skyline plan described in the text of the Midtown Cultural District Plan."

The requirements as to Landmarks and Historic Buildings provide that each project be generally designed to limit shadows and other impacts on Landmarks and Historic Buildings. As discussed above, the Project has been designed to minimize shadows and other impacts on the Boston Common, the Old South Meeting House and the Boston Five Cents Savings Bank Park, and is sensitive to the historic scale and street patterns of the area. In addition, the Project includes a contribution to the Old South Meeting House to provide for renovations that may be appropriate.

The Design Standards also require each project to enhance the pedestrian environment. The Project accomplishes this result in a variety of ways, including the covered through-block pedestrian concourse linking the Financial District and Downtown Crossing, the rehabilitation of the existing retail pedestrian arcade around the perimeter of the existing Woolworth's building, and preservation of the historic street patterns of the area. In addition, the materials used for the Project will be compatible with those of existing buildings surrounding the Project.

The Design Standards also require review by the Boston Civic Design Commission ("BCDC") in accordance with Article 28 of the Code. The Applicant has made pre-schematic presentations to BCDC and will submit Schematic Design Drawings and Materials for the Project in due course. The Applicant is

committed to the consideration of all recommendations of the BCDC received within the time periods set forth in Article 28.

Neighborhood Business Opportunities

Most of the Project's retail use is comprised of Woolworth's retail store. The Applicant is committed to providing opportunities for neighborhood businesses and entrepreneurs and will enter into a Neighborhood Business Opportunities Plan outlining the measures which the Applicant will undertake to implement those goals.

Childcare

The Project includes the contribution of \$500,000 for the provision of approximately 4,000 square feet of child care facilities within the Midtown Cultural District.

Historic Preservation

The Project includes substantial contributions to the Old South Meeting House, as well as the YMCU Theatre and the Wang Center. In addition, the office building has been set back from Franklin and Washington Streets, and designed so as to avoid over-building or overwhelming the pedestrian-oriented Downtown Crossing section of the City.

Enhancement of Pedestrian Environment and Open Space

The design for the Project provides a covered through-block connection for pedestrians between the Financial District and Downtown Crossing, and will improve the existing pedestrian arcades around the perimeter of the Woolworth's retail store. The public spaces of the Project will be designed, managed and maintained in a manner which enhances and attracts pedestrian use.

The design also preserves existing street patterns, street walls and cornice heights in order to maintain the human scale of the Midtown Cultural District's 17th and 18th century street patterns and its 19th and 20th century buildings.

Transportation

The Site is well served by public transportation. The Project is next to the Downtown Crossing Station of the Orange and Red Lines, and also within a short walk of the Green and Blue Lines. In addition to the subway lines, the commuter rail terminals and express bus services serving the southern, western and northern suburbs are also within walking distance of the Project or can be reached easily via the subway lines. Finally, a new commuter docking facility at Rows Wharf servicing the south shore communities is easily accessible.

Over the past year, substantial improvements have been made to the subway and commuter rail lines serving the downtown area. These improvements, which include track and signal system upgrading, station modernization, platform lengthening, and new rolling stock, will insure that adequate system capacity exists to accommodate expected new demand from increased development and changes in commuting patterns.

Vehicular access and egress for the Site will be provided by the existing streets bounding the Site. The primary streets currently serving the site are Milk Street (two-way), Hawley Street (one-way northbound), Franklin Street (one-way westbound), and Arch Street (one-way northbound). Access to the parking facility will be from Hawley off Franklin Street, and egress from the facility will be via Hawley onto Milk Street. The Project will be served by existing loading bays which are reached via Arch Street.

The Project will include off-street parking for approximately 1,084 vehicles in order to meet the needs of the retail patrons and office tenants. The BRA will require that a portion of these spaces will be available for public parking for retail patrons, and theater district patrons and Chinatown residents during evening and weekend hours in order to enhance the cultural uses in the area and the quality of life of the residents of Chinatown. In addition, the Applicant will use all reasonable efforts to encourage a parking fee structure with hourly rates designed to encourage short-term use.

The DPIR/DEIR sets forth additional potential mitigation measures including, among other things, encouraging use of carpools and vanpools by coordination of a reserved space for car and van pool parking, and encouraging use of mass transit by providing for on-site sale of passes and information dissemination, reducing peak-hour demands by encouraging building tenants to promote flex-time and subsidize employees' public transportation costs. After the issuance of an Adequacy Determination and submission of a Final DPIR, the Applicant will enter into a Transportation Access Plan Agreement in order to incorporate the mitigation measures required by the Adequacy Determination into the Project.

The Applicant has also considered the impact of construction activities. Construction will not significantly change current traffic conditions. Nonetheless, the Applicant will undertake certain mitigation measures to insure that any change will be beneficial and that the Midtown Cultural District community will be protected from the dangers of excessive construction traffic. These measures may include protected pedestrian routes, on-site staging, no use of travel lanes for staging, police officer control as required, no construction worker parking, and off-peak worker shifts.

The BRA has worked closely with the Applicant in arriving at possible mitigation measures. The Applicant has evidenced a commitment to work with the City to insure that a meaningful program of mitigation actions is identified and implemented.

Increased Tax Revenues

The City will collect nearly ten times the existing annual tax revenue from the Project once it is completed. It is estimated that real estate taxes generated by the Project, once completed, will increase ten-fold from the existing \$300,000 to approximately \$3.1 million.

In addition, the City and the Commonwealth of Massachusetts can expect a substantial increase in sales taxes.

The Appropriate Neighborhood

In carrying out the balancing test of public benefits and detriments required by Sections 3-1A, 26A-3, and 38-12, the BRA must consider the appropriate "neighborhood." While the Midtown Cultural District itself includes residential areas such as the areas facing Boston Common, including Parkside and Tremont-on-the-Common), any project within the district is likely to have an impact (both benefits and burdens) on the surrounding areas, such as Chinatown, the Financial District, Bay Village and the Back Bay. However, regardless of how narrowly or broadly defined the neighborhood" may be in this instance, and even if the "neighborhood" is expanded to include the entire City, the BRA finds that the Project's benefits clearly outweigh the combined detriments of the Project. The BRA finds that development of a significantly underutilized commercial area with a first-class, multi-use Project, together with the accompanying benefits of historic preservation, cultural and other benefits, construction jobs, permanent jobs, affordable housing, childcare facilities and additional annual real estate taxes, outweigh the negligible detriments, if any, resulting from the Project.

Accordingly, the BRA finds that the Project and the proposed PDA/DIP Plan "is not injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens, including without limitation those factors identified in Sections 38-14 and 38-16."

9. THE PROJECT SATISFIES THE CRITERIA FOR PDA AND MIDTOWN EXCEPTIONS

WHEREAS, in order for the Zoning Board of Appeals to grant certain exceptions with respect to the building height, floor area ratio, setbacks (to the extent necessary), and certain other dimensional features of the Project in accordance with

Sections 38-13, 38-19 and 6A-3 of the Code, and to grant a Conditional Use Permit for the parking facilities included in the Project in accordance with Sections 38-18.6(d), 38-13 and 6A-3 of the Code, it must find (i) that such exceptions as to height and floor area ratio are in substantial accord with the provisions of Section 38-11 and Table A of Article 38; (ii) that each requested exception is "in harmony with the general purpose and intent" of the Code; (iii) that each requested exception is in conformity with the development plan for the planned development area or with the Midtown Plan, as applicable, and that the BRA has so certified; and (iv) that the Project complies with the Development Impact Project requirements of the Code, if applicable; and

WHEREAS, in order for the Project to be eligible for increased as-of-right height and floor area ratio pursuant to Section 38-7 of the Code, the BRA must certify that the Project complies with the Development Review Requirements of Article 31; and

WHEREAS, in order for the Zoning Board of Appeals to grant an exception for increased floor area ratio pursuant to Section 38-8 of the Code, it must find that "(a) the Proposed Project and its massing are architecturally compatible with the surrounding area, in accordance with the urban design provisions of Section 31-8; (b) [each] exception is in harmony with the general purpose and intent of [the Code]; (c) the Proposed Project is consistent with the Midtown Cultural District Plan and the general plan for the city as a whole; and (d) if such exception relates to a Development Impact Project . . . the Applicant shall have complied with the Development Impact Project Requirements," and the BRA must have recommended approval of such exception for increased floor area ratio.

For the reasons set forth in the Resolutions numbered 6, 7 and 8 above, and based upon a review of the Applicant's PDA/DIP Plan, the BRA and OJCS Agreements, and the Schematic Design drawings for the Project, and assuming that each of the BRA and OJCS Agreements are executed substantially in their present form, the BRA finds that the above-stated criteria are satisfied as to each of the exceptions listed in the schedule of Zoning Exceptions submitted to the BRA.

10. MINOR MODIFICATION OF SCHOOL-FRANKLIN
URBAN RENEWAL PLAN.

WHEREAS, the Urban Renewal Plan for the School-Franklin Urban Renewal Area was adopted by the Boston Redevelopment Authority and approved by the City Council of the City of Boston in May of 1968; (Project No. Mass R-82A)

WHEREAS, Section 1201 of Chapter XII of said Plan entitled: "Modifications" provides that the Urban Renewal Plan may be modified at any time by the Boston Redevelopment Authority without further approval provided that the proposed modifications do not substantially or materially alter or change the Plan; and

WHEREAS, it is the opinion of the Authority that the minor modifications with respect to Parcel A-1 are consistent with the objectives of the School-Franklin Urban Renewal Plan; and

WHEREAS, the Authority is cognizant of Chapter 781 of the Acts and Resolves of 1972 with respect to minimizing and preventing damage to the environment; and

WHEREAS, the proposed amendment to the Plan is a minor change and may be adopted within the discretion of the Authority pursuant to Section 1201 of said Plan.

The BRA finds that the proposed amendment to the Plan to change the parking and F.A.R. requirements and adding office uses thereof as to Parcel A-1 is a minor modification which does not substantially or materially alter or change the Plan, that the Project is consistent with the Plan, that all practical and feasible measures have been taken and are being utilized to avoid or minimize damage to the environment, and that the Project will not result in significant damage to or impairment of the environment.

11. CONCLUSION

WHEREAS, the BRA gave due and proper notice of a public hearing to be held in the offices of the BRA on September 13, 1990, to consider the PDA/DIP Plan and to determine the manner in which Sections 3-1A, 26A-3, and 38-12 should be applied to the PDA/DIP Plan. The public hearing was duly convened and held in all respects in accordance with law, and to the extent required by law, with a legal quorum present throughout the meeting. At the public hearing, the BRA heard extensive testimony from a number of witnesses. The BRA considered numerous exhibits submitted by the Applicant at the public hearing. The BRA closed the public hearing and the public record on this Application on September 13, 1990.

Based on all this evidence, the BRA finds and concludes that the Project is important to the revitalization of the Midtown Cultural District area; that the urban design elements of the Project reflect the needs of the Midtown Cultural District, while respecting the public goals and guidelines established for downtown development in Boston; that the Project will form an important link in the City's skyline between the Financial District and Downtown Crossing; that the

Project will aid the City financially by generating jobs, and by providing Boston with a new source of real estate tax revenues and linkage funds; and that the Project will make an important contribution to Boston's affordable housing and cultural needs.

Based on all the evidence, the BRA further finds and concludes the Project's PDA/DIP Plan satisfies the Plan Criteria and the Midtown Cultural District PDA Criteria and otherwise complies with Sections 3-1A, 26A-3, 26B-3, and 38-12 of the Code.

Based on all the evidence, the BRA further finds and concludes the Project's PDA/DIP Plan "conforms to the Midtown Cultural District Plan and the general plan for the city as a whole."

Based on all the evidence, the BRA weighs this Project's public benefits against the combined burdens of this Project and further finds and concludes that "on balance, nothing in [the Project's PDA/DIP Plan] is injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens."

Based on all the evidence, the BRA finds that the exceptions listed in the schedule of Zoning Exceptions attached to the PDA/DIP Plan as Exhibit D satisfy all of the criteria of the Code.

THEREFORE, be it resolved that:

In connection with the Development Plan and the Development Impact Project Plan for Thirty-Three Arch Street (the "PDA/DIP Plan") presented at a public hearing duly held at the offices of the Authority on September 13, 1990, and after consideration of the evidence presented at, and in connection with, the hearing, and the findings of the Authority set forth above, which evidence and findings are incorporated herein by reference, the Authority finds that the PDA/DIP Plan (1) conforms to the Midtown Cultural District Plan and the general plan of the City of Boston as a whole, (2) on balance, contains nothing that will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens, including without limitation those factors identified in Sections 38-14 and 38-16 of the Code, and (3) does adequately and sufficiently satisfy all other criteria and specifications and include such other agreements as are required for a development plan for a planned development area zoning designation within the Midtown Cultural District and a development impact project plan, as set

forth in the Boston Zoning Code, as amended (the "Code"). The PDA/DIP Plan is embodied in a written document entitled "Development Plan and Development Impact Project Plan for Planned Development Area No. 39, Thirty-Three Arch Street," dated as of September 13, 1990, consisting of ___ pages of text plus attachments designated Exhibits A through D. Said document shall be on file in the office of the Assistant Director of Neighborhood Planning and Zoning of the Authority.

THEREFORE, be it resolved that:

The form and substance of the PDA/DIP Plan, and the procedures employed in reviewing and approving the PDA/DIP Plan, conform with the requirements of the Code as applied to a development plan for a planned development area under Sections 3-1A and 38-12 of the Code and a development impact project plan under Section 26A-3 of the Code.

THEREFORE, be it resolved that:

Pursuant to the Provisions of Sections 3-1A, 26A-3, 26B-3 and 38-12 of the Code, the Authority hereby approves the PDA/DIP Plan.

THEREFORE, be it resolved that:

The Authority hereby authorizes the Director of the Authority to petition the Zoning Commission (the "Commission") for approval of the PDA/DIP Plan and for a Planned Development Area district designation for the parcel of land which is the subject of the PDA/DIP Plan, and that it approve the PDA/DIP Plan pursuant to Sections 3-1A and 38-12 of the Code.

THEREFORE, be it resolved that:

The Authority hereby approves the proposed forms of Development Impact Project Agreement, Cooperation Agreement, and Cultural Benefits Agreement (collectively, the "Related Agreements") in substantially the forms attached hereto, and the Authority hereby authorizes and directs the Director of the Authority to execute and deliver in the name of and on behalf of the Authority the Related Agreements, and such other documents as the Director deems necessary or appropriate to effect development of the Project, with such changes as the Director and the Chief General Counsel, in their discretion, shall determine to be necessary or desirable, the execution and delivery of any of the foregoing by the Director or the taking of any such action to be conclusive evidence of such determination and of the authority granted

to them hereunder. The Authority hereby authorizes the Director of the Authority to certify to the Zoning Commission and the Board of Appeal the status of the Preliminary Adequacy Determination or the Adequacy Determination, as the case may be, of the Project under Article 31 of the Code; and thereafter, conditioned upon execution of a Transportation Access Plan Agreement and other necessary agreements with the Boston Transportation Department, and a Boston Residents Construction Employment Plan, a First Source Agreement, and other necessary agreements with the Mayor's Office of Jobs and Community Services, and certification by the City Transportation Department that the Transportation Access Plan Agreement has been executed, to certify to the Commissioner of Inspectional Services that the Project complies with Articles 26, 26A, 26B, 27, 28, 29 and 31 of the Code.

THEREFORE, be it resolved that:

Pursuant to Sections 6A-2, 38-7, 38-8, 38-13, 38-19, 38-20 and 38-21 of the Code, the Authority hereby authorizes the Director and/or the Executive Director of the Authority to recommend to the Board of Appeal approval of the proposed zoning exceptions set forth in the document entitled "Zoning Exceptions" (the "Zoning Exceptions") attached to the PDA/DIP Plan as Exhibit D, with such changes as the Director of the Authority, in his discretion, shall determine to be necessary or desirable, his taking of any such action to be conclusive evidence of his determination and of the authority granted to him hereunder; which approvals are recommended by the Authority, provided that the Commission shall have adopted a Map Amendment designating the land involved as a Planned Development Area zoning district, and provided further that the Schematic Design Submission shall have been submitted to the Authority for design review to ensure that the same are consistent with drawings previously approved by the Authority and with the PDA/DIP Plan and that the Development Impact Project Agreement shall have been entered into. The Authority hereby authorizes the Director and/or the Executive Director of the Authority to certify to the Commission and the Board of Appeal that said Exceptions are in conformity with the PDA/DIP Plan and the Midtown Cultural District Plan, and also that such final working drawings are consistent with the design standards of the Midtown Cultural District Plan and Article 38 (including, where applicable, Section 38-20).

THEREFORE, be it resolved that:

Pursuant to Section 1201 thereof, the School-Franklin Urban Renewal Plan, Mass. R-82A be and hereby is amended as follows:

1. That Section 606 thereof, entitled "Land Use Controls and Building Requirements for Disposition Parcels" with respect to Parcel A-1, on pages 6-4 of said Plan, is hereby amended (a) by adding after "parking" the words "office uses" on the first line thereof following "permitted uses"; (b) by deleting, on the fourth line thereof, "Minimum 3; Maximum 10" following "F.A.R.", and inserting the following in place thereof: "Maximum 10-14, in accordance with Article 38 of the Boston Zoning Code, effective March 20, 1989", and (c) by deleting on the fifth line thereof "not to exceed 880 cars" and inserting the following in place thereof "not to exceed 1090 cars", all in accordance with the Development Plan and Development Impact Project Plan approved this date.
2. That the proposed modifications are found to be minor modifications which do not substantially or materially alter or change the Plan.
3. That all other provisions of said Plan not inconsistent herewith be and are continued in full force and effect.
4. That it is hereby found and determined that the proposed development will not result in significant damage to or impairment of the environment and further, that all practicable and feasible means and measures have been taken and are being utilized to avoid or minimize damage to the environment.
5. That the foregoing modifications shall be severable such that if one or more of the same shall be determined invalid the remainder shall remain in full force and effect.
6. That the Director and/or the Executive Director be and hereby is authorized to proclaim by certificate these minor modifications of the Plan, all in accordance with the provisions of the Urban Renewal Handbook, RHM 7207.1 dated August, 1974.

THEREFORE, be it resolved that:

The Authority hereby authorizes the Director and/or the Executive Director of the Authority to petition the Zoning Commission to adopt a text amendment to the Boston Zoning Code allowing a height of up to 388 feet within the Planned Development Area for the parcel of land which is the subject of the PDA/DIP Plan in substantially the form attached as Exhibit A hereto.

The Authority hereby authorizes the Director and/or the Executive Director to execute, in the name and on behalf of the Authority, all documents deemed necessary, including a Land Disposition Agreement and Deed with Frank-King Associates Limited Partnership, concerning the transfer of a certain parcel of land owned by the Authority fronting on Arch Street and containing approximately 5,100 square feet; such documents to be in the Authority's usual form, and including such changes as the Director (or the Executive Director, as the case may be) deems appropriate and in the best interest of the Authority.

EXHIBIT A

Text Amendment Application No. _____
Boston Redevelopment Authority
Midtown Cultural District

TEXT AMENDMENT NO. _____
THE COMMONWEALTH OF MASSACHUSETTS
CITY OF BOSTON
IN ZONING COMMISSION

The Zoning Commission of the City of Boston, acting under Chapter 665 of the Acts of 1956, as amended, after due report, notice, and hearing does hereby amend the Boston Zoning Code as follows:

By amending Article 38, Section 38-11, subsection 2(a) by deleting such subsection and substituting therefor the following: "(a) within PDA-I, a maximum building height range of one hundred fifty-five (155) feet to three hundred eighty-eight (388) feet, and FAR of ten (10) to fourteen (14)";

and by amending Section 38-12, Table A, by, deleting such Table and substituting therefor the following:

Table A

Dimensional Regulations
Planned Development Area
Midtown Cultural District

	Maximum Height Standards	Maximum FAR Standards
PDA-I	155'-388'	10-14
PDA-II	155'-400'	10-14
PDA-III	155'-300'	10-14*

*In Proposed Projects to exceed a building height of one hundred fifty-five feet (155'), at least fifty percent (50%) of the gross floor area above the height of one hundred fifty-five feet (155') must consist of uses other than office uses or institutional uses.

See Section 38-11.

Susan

Corrected pages - from Juan Loveluck -
for 33 Arch Street documents - approved
9/13/90:- 2 sets:

After
Tab #

- | | |
|---|---|
| 1 | Board memo - last pg. --
no. of pages of Resolution
corrected in vote |
| 5 | Devel. Plan - Exhibit C -
corrected list, with copies
of drawings added |

NOTE: We will also get a corrected
Exhibit D to Devel. Plan

Marguerite 10/11

EXHIBIT C

33 ARCH STREET

DEVELOPMENT PLAN DESIGN SUBMISSION

Drawings dated September 4, 1990, prepared by Shepley, Bulfinch, Richardson and Abbott and Crang & Boake, Inc.

Site Plan

Grade Level Plan

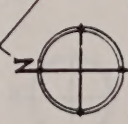
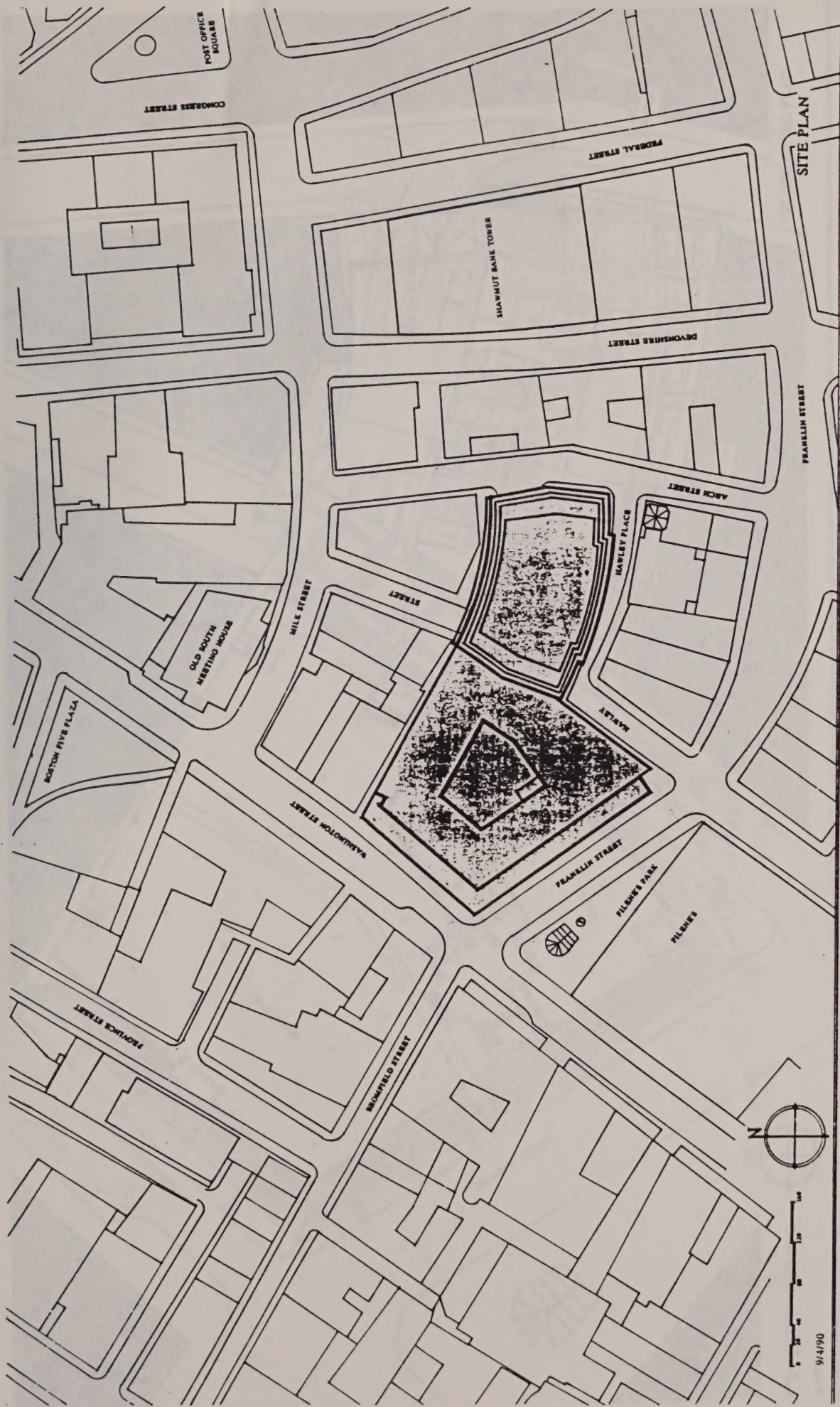
Typical Garage Floor Plan

Typical Lower Floor Plan

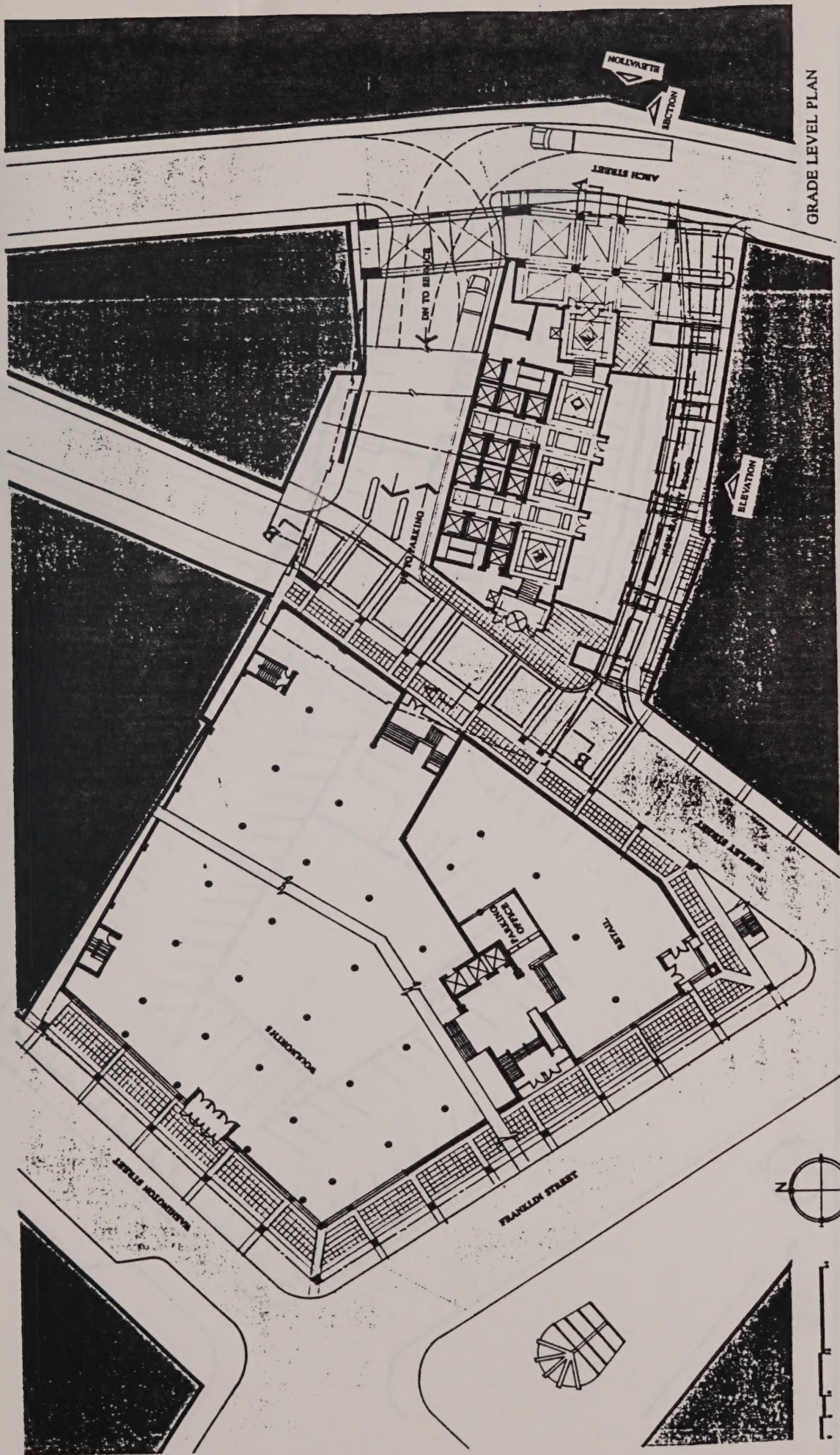
Building Section

Arch Street Elevation

Franklin Street Elevation



9/1/90



GRADE LEVEL PLAN

33 ARCH

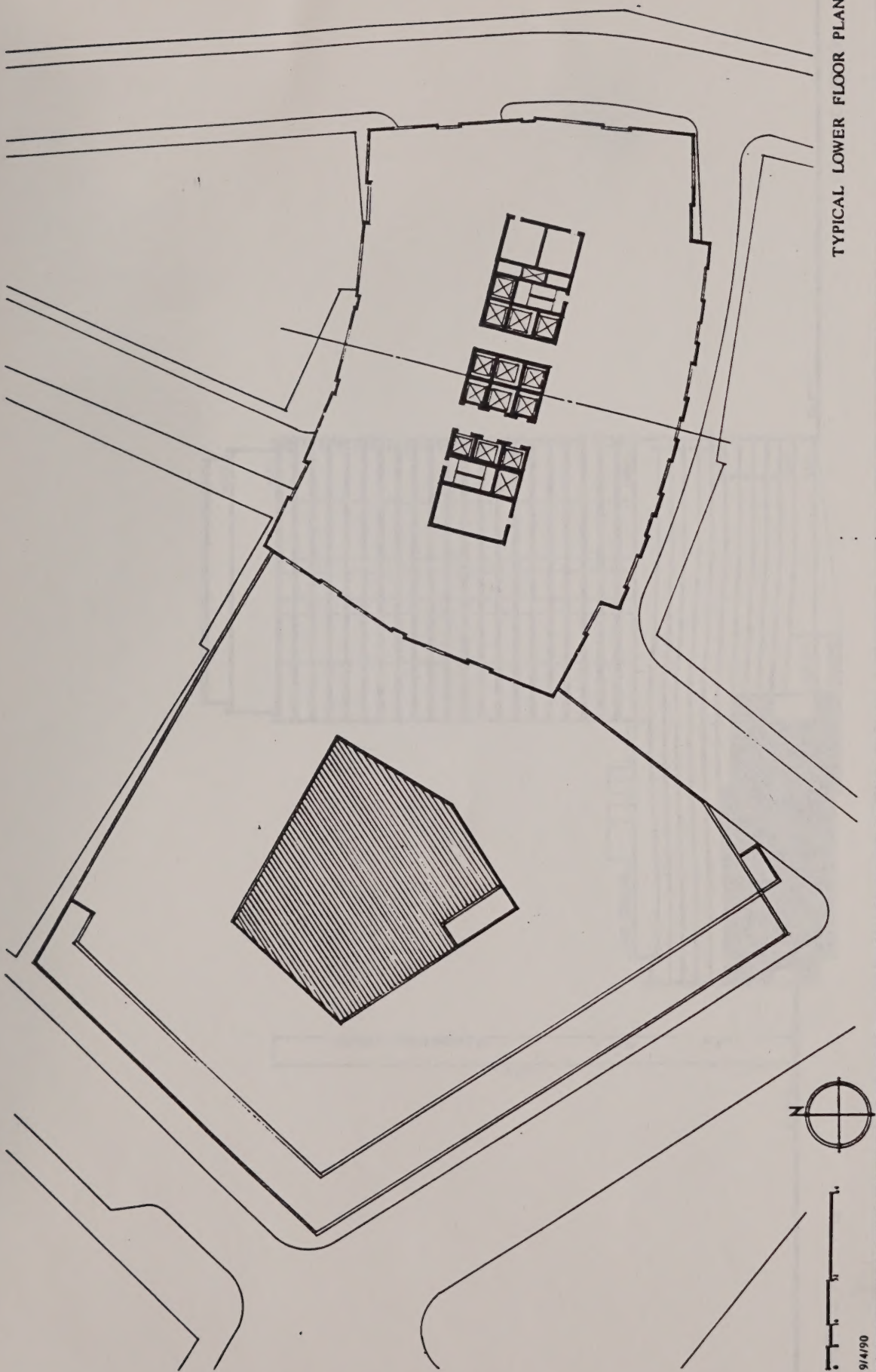
OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.

ARCHITECTS: SHEPLEY BULFINCH RICHARDSON AND ABBOTT CRANO AND BOAKE, INC.

9/4/90



TYPICAL GARAGE FLOOR PLAN



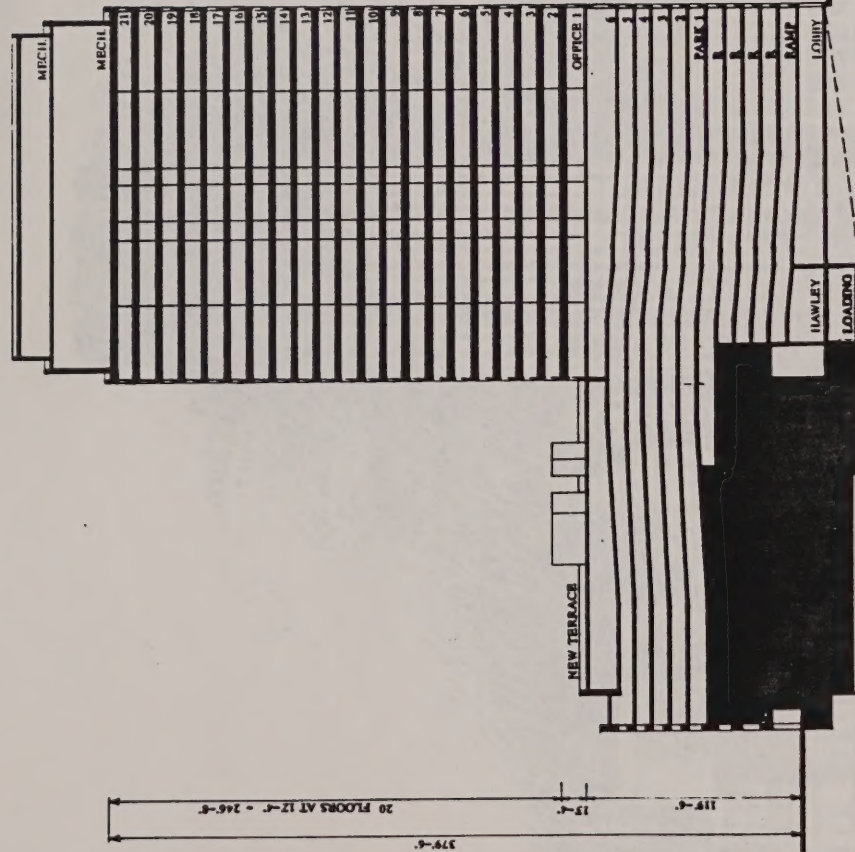
TYPICAL LOWER FLOOR PLAN

33 ARCH

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.

ARCHITECTS: SHEPLEY, BULFINCH, RICHARDSON AND ABBOTT CRANO AND BOAKE, INC

9/4/90



9/4/90

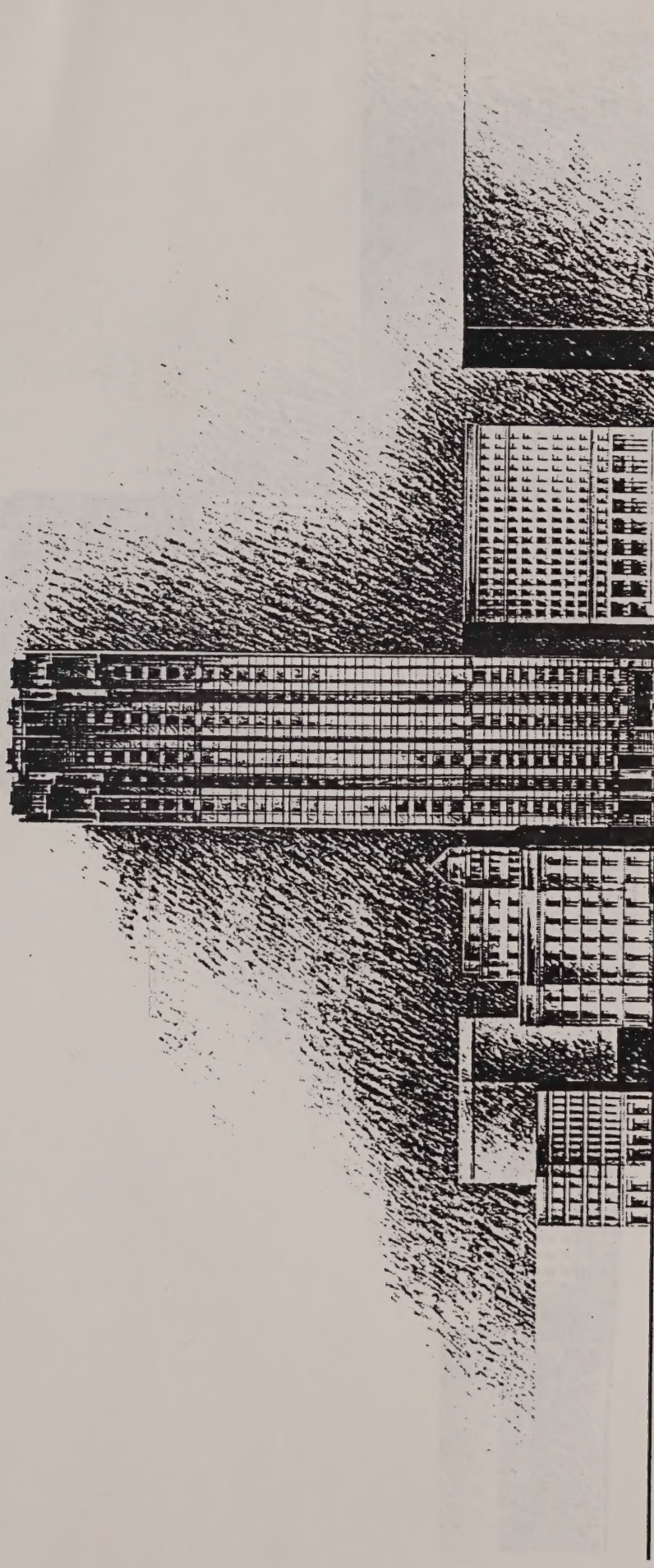
BUILDING SECTION

33 ARCH

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.

ARCHITECTS: SHIPLEY BULFINCH RICHARDSON AND ABBOTT

CRANG AND BOAKE, INC.

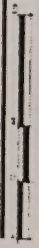


ARCH STREET ELEVATION

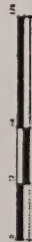
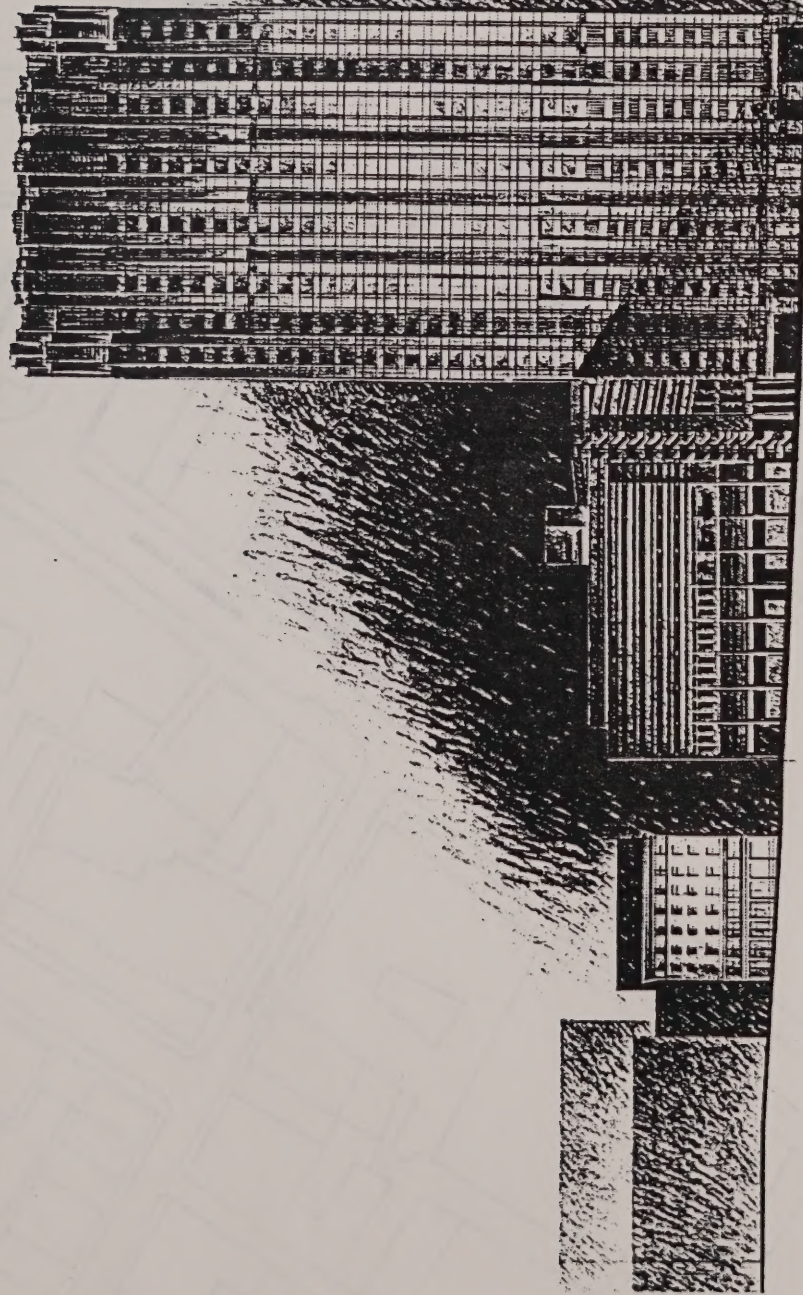
33 ARCH

ARCHITECTS: SHEPLEY, BULFINCH, RICHARDSON AND ABBOTT & CRANG AND BOAKE, INC.

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.



9/4/90



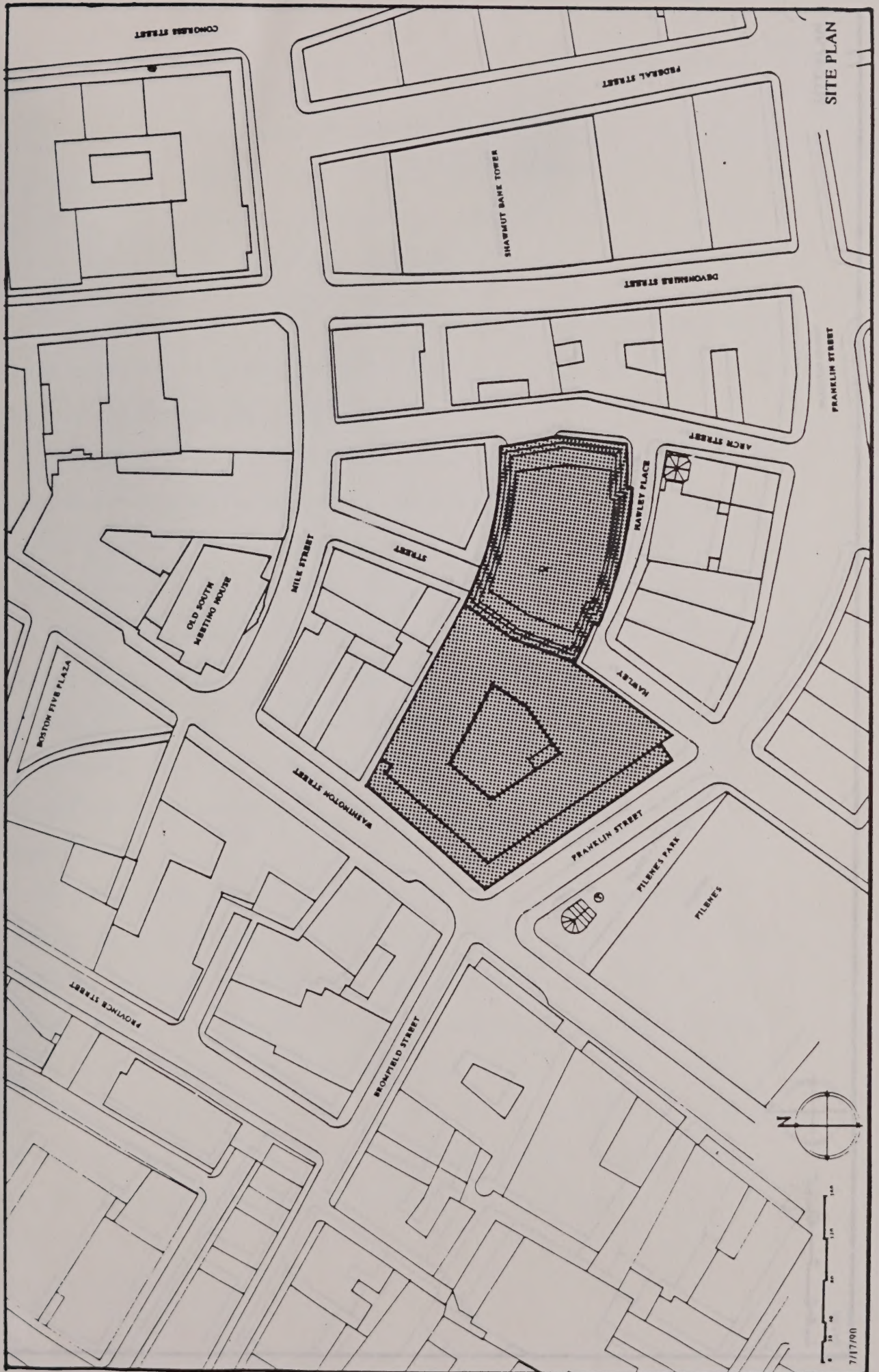
9/4/90

FRANKLIN STREET ELEVATION

33 ARCH

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.

ARCHITECTS: SHEPLEY, BULFINCH, RICHARDSON AND ABBOTT & CRANG AND BOAKE, INC.

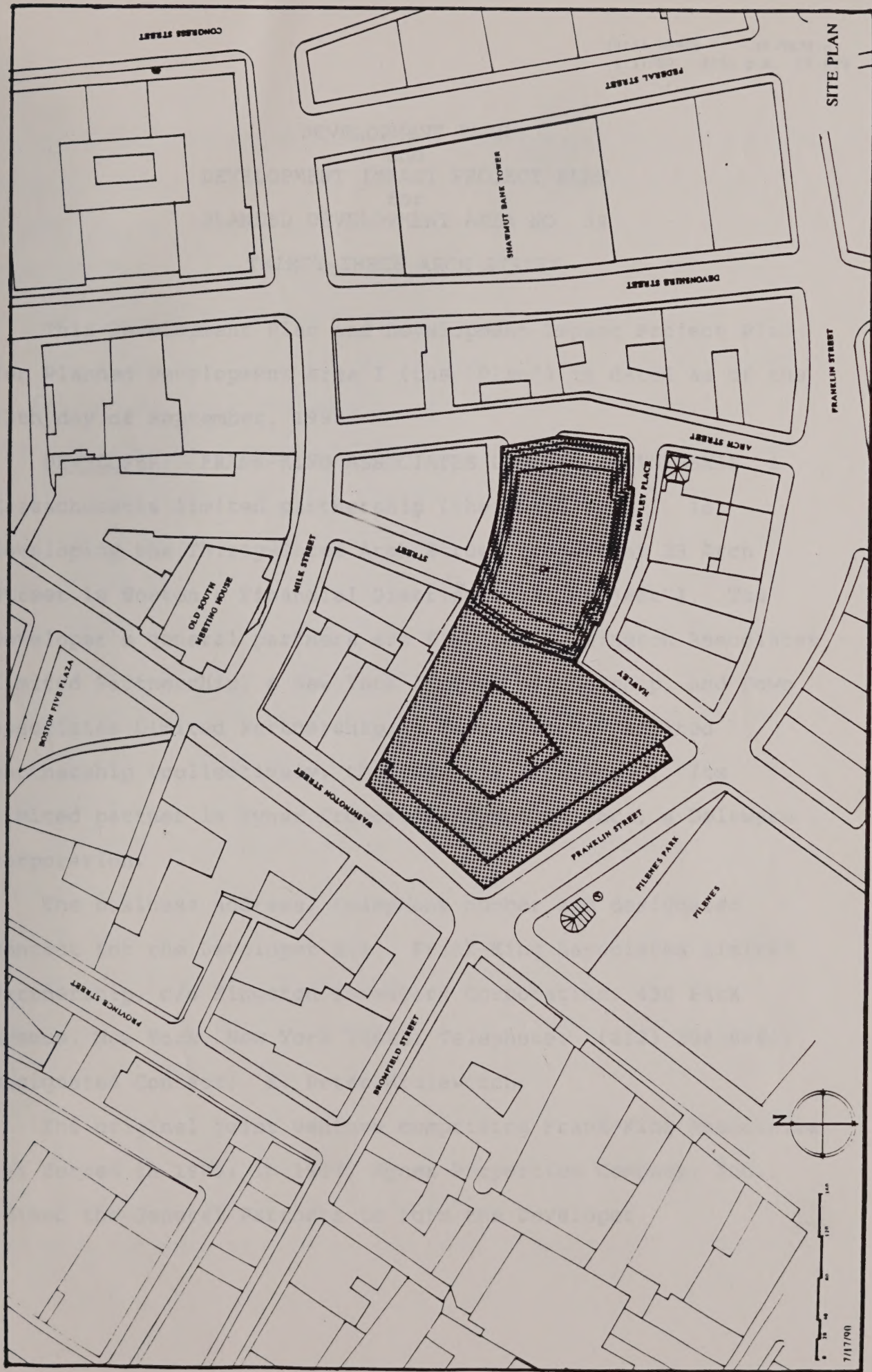


SITE PLAN

ARCHITECTS: SHEPLEY BULFINCH RICHARDSON AND ABBOTT

33 ARCH

OWNER / DEVELOPER: FRANK KING ASSOCIATES DEVELOPMENT ADVISOR: OLD STATE MANAGEMENT CORP.



DEVELOPMENT PLAN
and
DEVELOPMENT IMPACT PROJECT PLAN
for
PLANNED DEVELOPMENT AREA NO. 39
THIRTY-THREE ARCH STREET

This Development Plan and Development Impact Project Plan for Planned Development Area I (the "Plan") is dated as of the 13th day of September, 1990.

DEVELOPER: FRANK-KING ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership (the "Developer"), is developing the Thirty-Three Arch Street project at 33 Arch Street in Boston's Financial District (the "Project"). The Developer's general partners are Kingston Washington Associates Limited Partnership, a New York limited partnership, and Bowo Associates Limited Partnership, a Massachusetts limited partnership (collectively, the "General Partners"). Its limited partner is Nynex Properties Company, Inc., a Delaware corporation.

The business address, telephone number and designated contact for the Developer are: Frank-King Associates Limited Partnership, c/o Kingston Investors Corporation, 430 Park Avenue, New York, New York 10022; Telephone: (212) 308-6990; Designated Contact: E. Peter Krulewitch.

The original joint venture comprising Frank-King Associates was formed in 1985; in 1987, Nynex Properties Company, Inc., joined the General Partners to form the Developer.

SITE DESCRIPTION/PROJECT AREA: The Project site is bounded by Washington, Franklin, Hawley and Arch Streets in Boston's Midtown Cultural District. Its most easterly portion extends into the City's Financial District. The parcel currently owned by the Developer consists of approximately 58,819 square feet of land (the "FKA Parcel"), as is more particularly described in Exhibit A-1 attached hereto. In addition, the Developer plans to acquire a parcel adjacent to the FKA Parcel, located at the intersection of Arch Street and Hawley Place and comprising approximately 5,101 square feet of land (the "BRA Arch Street Parcel") from the Boston Redevelopment Authority (the "Authority"), as is more particularly described in Exhibit A-2 attached hereto. The combined parcel on which the Project will be located will contain approximately 63,920 square feet of land and is shown on the site plan attached as Exhibit B (the "Site").

The Site is proposed to be designated as a Planned Development Area within the area on Map I-A of the Boston Zoning Code designated as PDA-I in Section 38-10 of the Code.

GENERAL DESCRIPTION OF PROPOSED DEVELOPMENT AND USE

ALLOCATION: The Project consists of a 21-story office building to be constructed over the existing Woolworth's retail store and an extension of the existing Meyer's parking facility over the BRA Arch Street Parcel, and will include approximately 497,785 square feet of new development in the office building and approximately 100,300 square feet of additional space in

the parking facility. As set forth in the Development Impact Agreement, the final square footage calculation may vary as the design is developed during the design review process. Any such changes, however, will be consistent with zoning requirements and the building dimensions that are approved by the Board of Appeal as part of the PDA approval for the Project. In no event shall the exterior dimensions of the building exceed those described in this Development Plan, including the exhibits hereto.

The office building will be constructed above a new rectilinear ramp to the parking facility that is to be located off Hawley Street and will include approximately 487,285 square feet of office space, approximately 5,000 square feet of office lobby retail space and approximately 5,500 square feet devoted to a lobby and pedestrian concourse linking Arch and Hawley Streets and creating a mid-block pedestrian connection between the Financial District and Downtown Crossing. The six existing floors of the parking facility will be extended over the BRA Arch Street Parcel; the additional space will accommodate approximately 196 additional parking spaces.

The office building's location, at the easterly portion of the Site adjacent to Arch Street, will both strengthen the existing street wall at the edge of the Financial District and minimize the impact of a taller structure on the pedestrian shopping zone of Downtown Crossing.

In keeping with its transitional location and function, the base massing of the office building will be of a scale

compatible with that of the surrounding retail area; its facades will be designed to reflect the cornice lines and surface articulation of neighboring buildings. At the same time, the office building will be designed to complement and enhance the existing skyline of the City.

The Authority will require that the existing arcade be renovated, and the lobby of the office building has been designed as a pedestrian concourse in order to extend the arcade to Arch Street and create a new mid-block pedestrian connection between the Financial District and Downtown Crossing. Further, the Project has been designed to minimize the impact of shadows on adjacent buildings and historic structures.

The extension of the parking facility onto the BRA Arch Street Parcel will accommodate the addition of approximately 196 spaces to the 888 spaces currently located within the facility, to provide parking for a total of approximately 1,084 vehicles on the existing six levels. The Authority will require, as part of the Project, that the parking facility's hours of operation be extended; it will be available for use by retail customers and patrons of the Midtown Cultural District's retail and cultural facilities and programs as well as tenants of the Project and their employees.

LOCATION AND APPEARANCE OF STRUCTURES: The location and appearance of the Project will conform with the drawings listed on Exhibit C attached hereto. These plans are subject to

further design review and refinement. (Such plans and approved refinements are hereinafter referred to collectively as the "Plans.")

The office building's facades will be primarily masonry and non-reflecting glass to minimize the effects of solar glare.

LEGAL INFORMATION: There are no legal judgments or actions pending which directly involve the Project. Tax arrears did exist on the Site, but have been paid. There are no taxes owed on any other Boston properties now owned by the Developer or the Development Advisor.

Except for the BRA Arch Street Parcel, the entire Site is owned by the Developer. The Developer intends to acquire the BRA Arch Street Parcel from the Authority.

BUILDING DIMENSIONS: The dimensions of the Project will conform with the drawings listed on Exhibit C to this Plan. These plans are subject to further design review and refinement. The Project's height, as defined in Section 2-1(23) of Article 2 of the Boston Zoning Code (as in existence as of the date of approval of this Plan, and not as the same may thereafter be amended), will not exceed the zoning height allowed under Section 38-7 of the Zoning Code. The height of the existing parking facility, including the proposed extension over the BRA Arch Street Parcel, will not exceed its current height of 126 feet.

PROPOSED TRAFFIC CIRCULATION: The area street network consists of Franklin, Washington, Arch, Milk, Devonshire,

Hawley and School Streets. Traffic circulation at the Site is provided by Milk Street (two-way), Hawley Street (one-way northbound), Franklin Street (one-way westbound), and Arch Street (one-way northbound). All passenger car access and egress for the Project will be via Hawley Street off Milk Street and Franklin Street.

As part of the Project, the existing circular ramp system in the parking facility will be replaced with a new rectilinear sloped ramp. In order to relieve the current traffic burden on Arch Street, the entrance and exit to the facility will be relocated and vehicles will enter via Hawley Street from Franklin Street, and leave via Hawley Street onto Milk Street.

The primary pedestrian access to the Project will be via the office lobby entrances on Arch and Hawley Streets.

PARKING AND LOADING FACILITIES: The Project will incorporate 196 additional parking spaces to the 888 parking spaces already existing in the parking facility to provide a total of 1,084 spaces for the use of customers, clients and tenants of the Project and patrons of the cultural facilities and community services in the Midtown Cultural District. Pedestrian access to the garage will be via elevators in the existing Franklin Street lobby.

The Project will be served by the existing loading area under the parking facility, which includes five (5) loading bays. It is anticipated that the existing loading area will be expanded and additional bays provided to serve the Project.

PROJECTED NUMBER OF EMPLOYEES: The Developer anticipates that the Project will generate construction-related jobs of approximately 2,500 person-years throughout the thirty-six month projected construction period and, upon completion of construction, will provide space to accommodate approximately 2,900 permanent office and retail jobs. During construction, the Developer will participate in the Boston Jobs Residents Policy, and will use good faith efforts to help insure that construction jobs are oriented toward Boston residents. The Developer will also be a part of the Boston for Boston initiative to work toward a goal that fifty percent (50%) of all permanent jobs are held by Boston residents once the Project has been completed.

ACCESS TO PUBLIC TRANSPORTATION: The Site is very well served by public transportation, including MBTA subway lines, local and express bus service and commuter rail to outlying suburbs. The Project is most closely served by the Downtown Crossing Station (Orange and Red Lines), located adjacent to the Project at Franklin Street. Other MBTA subway stations within easy walking distance include Park Street Station (Red and Green Lines), three blocks to the west, and State Street Station (Orange and Blue Lines), three blocks to the north. The Project is also located one block from the MBTA bus stop on Washington Street in front of Woolworth's retail store at the Site.

In addition to the subway lines, the commuter rail terminals serving the southern and western suburbs are located

at South Station; the commuter rail terminals serving the northern suburbs are located at the Green Line's North Station. Express commuter bus services to the suburbs stop at the intersection of Franklin and Federal Streets and at the Orange Line's Haymarket Station. Private commuter bus service is also provided at South Station. Finally, a commuter boat docking facility servicing the south shore communities is operating at Rows Wharf, a short walk from the Site.

Substantial improvements have recently been completed for the subway and commuter rail lines serving the downtown areas. These improvements, which include the upgrading of track and signal systems, the modernization of centrally-located subway stations, lengthening of platforms to accommodate longer trains (which can service more customers), and the acquisition of new rolling stock, will insure that adequate system capacity exists to accommodate expected new demand from increased development in downtown Boston and changes in commuting patterns.

As part of the Project, the Developer will enter into a Transportation Access Plan Agreement to implement various transportation mitigation measures (to be more fully detailed in the Final Project Impact Report and the Environmental Impact Report for the Project). These measures will include, but not be limited to, implementation of the following transportation mitigation measures:

- ° On-site dissemination of route and schedule information for commuter rail, rapid transit, bus, and water transportation services.

- ° On-site dissemination of ride-sharing information of Caravan for Commuters, Inc.
- ° On-site sale of MBTA passes.
- ° Coordination of a reserved space program for van and car pool parking.
- ° Provision of incentives to building tenants to allow flextime, staggered and extended hours to employees.
- ° Encouragement of tenant subsidization of employees' public transportation costs.
- ° Contribution for capital improvements to be undertaken by the Boston Transportation Department and/or the Authority to mitigate transportation impacts which are demonstrated to be solely and directly the result of the Project and/or its construction.

OPEN SPACE AND LANDSCAPING: The sidewalk areas bordering the Project will be paved with suitable materials approved by the Authority and compatible with the design of existing buildings and the Project.

The Project's design also addresses the street environment surrounding the Site. The existing pedestrian arcade around the perimeter of the existing Woolworth's retail store will be renovated and pedestrians will have access to the exterior arcade from the lobby and pedestrian concourse of the office building. As is detailed above, the office building's siting and massing are responsive to its location at the junction of the Financial District and Downtown Crossing.

DESIGN REVIEW PROCEDURES: In addition to the requirements of Article 31 of the Boston Zoning Code (described below), the design review process to be observed by the Developer and the Authority shall include review of items which affect site improvements, exterior facades, roofscape and interior public spaces, as set forth in the Authority's "Development Review Procedures" dated 1985 and revised in 1986 (the "Development Review Procedures").

The conceptual design for the Project, comprised of the plans listed on Exhibit C, has been submitted to the Authority.

PERMITS AND APPROVALS: A Project Notification Form for the Project was filed on October 18, 1988. Pursuant to Article 31 of the Boston Zoning Code, the Authority has required the preparation of a Project Impact Report ("PIR") for the Project, which has been coordinated with the preparation of the Project's Environmental Impact Report ("EIR") under the requirements of the Massachusetts Environmental Policy Act ("MEPA") (referred to below) in a combined report ("PIR/EIR"). By letter dated February 2, 1989, the Authority notified the Developer that the scope of the PIR must include the following components: Transportation Component, Environmental Protection Component, Urban Design Component, Historic Resources Component and Infrastructure Systems Component. The Draft PIR/EIR was submitted to the Authority on November 20, 1989, and notice thereof was published in the Boston Herald on November 27, 1989.

An Environmental Notification Form for the Project under MEPA was submitted to the Secretary of the Executive Office of Environmental Affairs ("EOEA") on November 30, 1988, and notice thereof was published in the Environmental Monitor on December 12, 1988. By letter dated January 26, 1989, the Secretary of the EOEA required that an EIR be prepared and specified that the BRA scoping document would be adopted for purposes of MEPA requirements. The Authority issued its Scoping Determination on February 2, 1989.

The combined Draft PIR/EIR was filed with the Secretary of the EOEA on November 15, 1989 and notice thereof was published in the Environmental Monitor on November 24, 1989.

In order to connect sewer lines to the Site, a Sewer Connection and Extension Permit is required from the Massachusetts Department of Water Pollution Control, requiring approval by the Boston Water and Sewer Commission. An application for such permit will be filed with the Boston Water and Sewer Commission in due course. In addition, the Massachusetts Water Resources Authority, which operates the regional sewer system serving Boston, must issue a permit for the Project or a letter waiving its requirements for the Project.

In connection with the addition of 196 parking spaces to the existing parking facility, the Developer will request that the Boston Air Pollution Control Commission (i) confirm an exemption for the proposed additional parking spaces, (ii)

permit the continued use of the existing parking spaces in the facility pursuant to its Procedures and Criteria for the Issuance of Parking Freeze Permits, and (iii) permit the use of the parking facility during off-peak hours for patrons of Midtown Cultural District activities not located on the Site. The Developer will also need to obtain authorization from the Boston Public Safety Commission for the storage of gasoline in the tanks of vehicles parked within a structure and the construction and maintenance of an open-air parking facility.

Notification must be given to the Federal Aviation Administration in connection with the construction of an object, such as a high-rise office building, which might affect navigable air space.

The Massachusetts Department of Environmental Protection must approve plans for furnaces, boilers or other fuel-burning equipment on the Site that exceed a specified generating capacity. The Project may require a permit from the United States Environmental Protection Agency under the National Pollution Discharge Elimination System program in connection with storm water runoff from roofs and paved areas on the site. Massachusetts law may also require a water pollution permit issued by the Division of Water Pollution Control with regard to storm water runoff. If any of the foregoing permits are required by applicable law, the Developer will obtain such permit(s) and will comply with all requirements thereof.

A number of approvals from various City agencies will also

be needed in connection with the conveyance by the Authority of the BRA Arch Street Parcel.

Pursuant to Chapter 254 of the Acts of 1988, the Developer must "... eliminate, minimize or mitigate adverse effects ...," on certain historic structures after the Massachusetts Historical Commission issues a determination concerning adverse effects, if any.

One or more demolition permits must be obtained prior to the demolition of any existing structure on the Site. Certain Building Code variances may be required, and one or more building permits must be secured, prior to construction of the various structures to be located on the Site.

Finally, certificates of occupancy, certifying the completion of those structures, must be obtained before any structure is placed in use.

COMPLIANCE WITH PLANS: The plans listed in Exhibit C comprise the conceptual plans for the Project submitted to the Authority. Construction of the Project will proceed in general conformance with the plans listed in Exhibit C and with the additional plans submitted by the Developer in accordance with the Schematic Design Submission requirements of the Development Review Procedures. Both the conceptual and schematic plans are subject to the approval of the Authority. As is the case with any project of this scope, and as a result of the various reviews of the Project to be undertaken in connection with the securing of all necessary permits and approvals therefor,

changes to the Project may be made and any such changes which affect site improvements, exterior facades, roofscape and interior public spaces shall be subject to the approval of the Authority pursuant to the Development Review Procedures.

ZONING: The Site is located within the Midtown Cultural District established by Article 38 of the Boston Zoning Code. The entire Site lies within the area designated PDA-I in Section 38-10 of the Code. Within the PDA-I area, if the area is designated as a Planned Development Area by the Boston Zoning Commission, the maximum zoning height limit of 155 feet and the maximum floor area ratio ("FAR") of 10 otherwise applicable to projects subject to the provisions of Article 31 of the Code may be exceeded by exceptions granted by the Board of Appeal up to a zoning height of 350 feet and an FAR of 14; if certain conditions set forth in Section 38-8 of the Boston Zoning Code are met, the exceptions may allow up to two additional ratio points to the maximum FAR. Subject to the adoption by the Boston Zoning Commission of a text amendment authorizing the height of the Project as described in this Plan, the Developer will seek exceptions from the Zoning Board of Appeal for relief from the FAR, on-site day care, and maximum average floor plate area requirements and (to the extent necessary) street wall height, tower separation, off-street loading and setback requirements otherwise applicable to the Project under the Code, all as more particularly set forth in Exhibit D attached hereto.

PROPOSED USES: The proposed uses of the Project include office, retail and parking uses. The Project, including the existing improvements currently located on the Site, will contain approximately 1,067,885 square feet of gross floor area. When completed, the Project, together with existing improvements, will contain approximately 492,785 square feet devoted to office use and the entrance lobby, and approximately 139,700 square feet devoted to retail use and the Burger King and Harvest Restaurants currently located within the existing building occupied by Woolworth's retail store. Of those figures, approximately 492,785 square feet and 5,000 square feet, respectively, will be added to the existing buildings by the new development. Finally, approximately 435,400 square feet of the completed Project and existing improvements will be devoted to parking for approximately 1,084 vehicles; of that, approximately 100,300 square feet of the parking area and 196 spaces will be added by the Project's new development.

DENSITIES: The underlying zoning in the Midtown Cultural District permits a maximum FAR of 8.0, which can be increased to 10.0 if a project is subject to Design Review under Article 31 of the Code, and which can be further increased up to 14, or, with the satisfaction of certain conditions, 16, in the area designated PDA-I. This Plan calls for a composite FAR of not more than 16.71 (based upon the ratio of 1,067,885 square feet of proposed gross floor area to 63,920 square feet of lot area on the Site). (For purposes of this Plan, the term "gross

floor area" shall have the meaning given to it in Section 2-1(21) of Article 2 of the Boston Zoning Code, as in existence as of the date of execution of this Plan, and not as the same may be amended thereafter, as affected by Section 38-8 concerning exclusions for "Ground Floor Uses." As customary, gross floor area has been determined by excluding mechanical shafts [including smoke exhaust shafts, toilet pipe shafts, stair pressurization shafts, rain leaders shafts, electrical risers and elevator shafts and overrides], electrical rooms, floor main mechanical rooms, and below-grade parking.)

The proposed Project, together with the existing improvements, would comprise an aggregate FAR of 16.71, which exceeds the allowable FAR. Of that figure, however, the existing parking facility and proposed extension together comprise an FAR of 6.81, approximately forty-one percent (41%) of the Project's total FAR.

DEVELOPMENT IMPACT PROJECT CONTRIBUTION: As required under Sections 26A-3 and 26B-3 of the Boston Zoning Code, the Developer will enter into a Development Impact Project Agreement with the Authority (the "DIP Agreement") and will be responsible for making a Development Impact Project Contribution (the "DIP Contribution") with regard to the Project. The DIP Contribution shall be made, at the Developer's option, by: (i) the grant and payment by the Developer of a sum of money, payable at the times and in the manner and under the conditions specified in the DIP Agreement

(referred to in Section 26A-3 of the Boston Zoning Code as the "Housing Contribution Grant"), (ii) the creation by the Developer of low and moderate income housing units at a cost at least equal to the amount of the Housing Contribution Grant and under the conditions specified in the DIP Agreement (referred to in Section 26A-3 as the "Housing Creation Option"), or (iii) a combination of items (i) and (ii) above.

Subject to the approval of the Neighborhood Housing Trust, the Developer anticipates making the DIP Contribution in the form of a Housing Contribution Grant. Should the Developer's obligation with regard to the DIP Contribution be satisfied solely in the form of a Housing Contribution Grant, total payments from the Developer would equal approximately \$1,988,925, calculated as follows:

Total Gross Square Footage of Uses Enumerated in Table D of Article 26A of the Boston Zoning Code	497,785 gross square feet
Less Exemption	(100,000) gross square feet
Net Gross Square Footage for Purposes of Payment	397,785 gross square feet
	X \$5.00/gsf
TOTAL HOUSING CONTRIBUTION GRANT	\$1,988,925.00

JOBS CONTRIBUTION GRANT: As required under Section 26B-3 of the Boston Zoning Code, the Developer will also be responsible for making a Jobs Contribution Grant with regard to the Project. The Jobs Contribution Grant shall be payable at the times, in the manner and under the conditions specified in

the DIP Agreement. It is anticipated that the total Jobs Contribution Grant for the Project will equal approximately \$397,785, calculated as follows:

Total Gross Square Footage of Uses Enumerated in Table E of Article 26B of the Boston Zoning Code	497,785 gross square feet
Less Exemption	(100,000) gross square feet
Net Gross Square Footage for Purposes of Payment	397,785 gross square feet
	<u>X \$1.00/gsf</u>
TOTAL JOBS CONTRIBUTION GRANT	\$397,785.00

PUBLIC BENEFITS:

A. Cultural Facilities and Benefits:

As part of the Project, the Developer will make financial contributions totalling One Million Dollars (\$1,000,000). These contributions shall be used to support programs sponsored by the Chinatown Community Center, to fund visual improvements to the Boston Five Cents Savings Bank Park, and to fund the rehabilitation and improvement of the YMCU Theatre, the Old South Meeting House and the Wang Center, and to establish a contingency benefit fund to support other cultural programs and facilities to be identified by the Authority, in consultation with the Developer (collectively, the "Developer's Contribution").

The Developer's Contribution shall be disbursed as follows:

Upon issuance of the initial building permit for the Project (as hereinafter defined), the Developer will make a

contribution of Fifty Thousand Dollars (\$50,000) to the Authority on behalf of the Chinatown Community Center. Upon issuance of the initial building permit, the Developer will also deliver Fifty Thousand Dollars (\$50,000) to the Authority to fund visual improvements to the Boston Five Cents Savings Bank Park. In addition, the Developer will, upon issuance of the initial building permit, contribute: One Hundred Thousand Dollars (\$100,000) to the Old South Association in Boston for capital improvements and renovations to the Old South Meeting House, One Hundred Thousand Dollars (\$100,000) to the Wang Restoration Campaign for renovation of the Wang Center, and Six Hundred Fifty Thousand Dollars (\$650,000) to the Authority for renovation of the YMCU Theatre, and an additional Fifty Thousand Dollars (\$50,000) to the Authority to establish a contingency benefit fund to support cultural programs and facilities to be identified by the Developer and the Authority.

B. Affordable Housing:

The Developer will pay approximately \$1,988,925.00 in the form of linkage payments to be dedicated to the creation of affordable housing within the Chinatown area.

C. Job Training:

The Developer will pay approximately \$397,785.00 in the form of linkage payments to be dedicated to the creation of jobs and/or job training programs.

D. Traffic and Transportation:

The Project (including existing improvements) will include

a 1,084 vehicle parking facility. The Authority will require that the facility's hours of operation be extended to allow evening and weekend use by patrons of the retail and cultural programs and facilities within the Midtown Cultural District, in addition to use during normal business hours by customers and tenants of the Project. The facility's entrance will be off Hawley Street. A portion of its spaces may be reserved for transient use to encourage short-term use.

E. Child Care:

As part of the Project, the Developer will contribute Five Hundred Thousand Dollars (\$500,000) to the Authority or its designee for the provision of child care facilities and services (the "Child Care Contribution"). One-half of the Child Care Contribution (\$250,000) will be due and payable upon issuance of the initial building permit for the Project; the balance of the Child Care Contribution (\$250,000) will be due and payable upon issuance of a Certificate of Occupancy for the office building. It is anticipated that this contribution will be used to provide child care facilities, which are planned to be located off-site and/or to expand existing child care services. The Child Care Contribution shall be governed by a separate agreement to be entered into between the Developer and the Authority or its designee before the issuance of the initial building permit for the Project.

F. Neighborhood Business Opportunities:

In connection with the Project, the Developer will formulate a Neighborhood Business Opportunities Plan outlining

the measures that the Developer will implement to market space within the Project to Neighborhood Business Establishments from Chinatown (as defined in the Code). Such Plan shall be approved by the Authority prior to the issuance of the initial building permit for the Project.

G. Streetscape and Open Space:

The design for Thirty-Three Arch provides a covered through-block connection for pedestrians linking Arch and Hawley Streets and connecting the Financial District and Downtown Crossing; the development will strengthen the existing street patterns, and reflect the scale and composition of neighboring buildings.

H. Historic Preservation:

Pursuant to the Cultural Benefits Agreement which the Developer will enter into with the Authority, the Developer will agree to contribute One Million Dollars to support cultural programs and institutions within the Midtown Cultural District. As is discussed in more detail above, the Developer anticipates that this contribution will, among other things, be allocated to rehabilitate the YMCU Theatre, the Old South Meeting House and the Wang Center, all of which are Boston landmarks.

I. Midtown Cultural District Economy/Fiscal Benefits:

Thirty-Three Arch involves a significant financial investment into the Midtown Cultural District by the Developer. It is anticipated that the completed Project will

generate \$3,000,000 annually in real estate taxes for the City. During the projected thirty-six month construction period, the Project will be able to support construction-related jobs of 2,500 person-years; upon its completion it will be able to accommodate 2,900 new permanent jobs. In addition, the Developer intends to participate in the Boston Residents Jobs Policy and the Boston for Boston initiative.

BUILDING PERMIT:

Notwithstanding anything to the contrary contained herein, it is agreed and understood that all references in this Plan to the "initial building permit for the Project" shall be deemed to refer to the first building permit issued in connection with construction of the office building described herein (including, by way of example but not of limitation, any excavation, foundation or other subsurface work undertaken in connection therewith), and shall not refer to any building or other permits or approvals issued in connection with the demolition of any structures (or portions thereof) now existing on the Site, or the conducting of borings, soils investigations or other similar activities, or any work undertaken in connection with the renovation of the Meyer's parking facility.

EXHIBIT A-1: Legal Description of FKA
Parcel
EXHIBIT A-2: Survey of BRA Arch Street
Parcel
EXHIBIT B: Site Plan
EXHIBIT C: Plans
EXHIBIT D: Necessary Zoning Relief

A certain parcel of land on Washington Street in the City of Boston, shown as Parcel A-6 on a two-sheet plan entitled "Boston Redevelopment Authority Central Business District--Urban Renewal Area Project No. Mass. R-82 Boston - Suffolk County - Massachusetts Delivery Parcel Plan Parcel A-6," dated August 15, 1967, by Chas. T. Main, Inc., which plan is attached as Exhibit B to a certain Land Disposition Agreement between the Boston Redevelopment Authority and Raymond's Redevelopment Associates, dated March 20, 1967, said Plan hereinafter being referred to as "Plan 1," and bounded and described as follows:

NORTHWESTERLY by Washington Street by two (2) lines measuring, respectively, one hundred twenty-four and 95/100 (124.95) feet and twenty-five and 33/100 (25.33) feet;

NORTHEASTERLY by a line in a party wall one hundred thirty-three and 80/100 (133.80) feet;

NORTHWESTERLY by a line in a party wall three and 77/100 (3.77) feet;

NORTHEASTERLY by a line in part in a party wall seventy-four and 00/100 (74.00) feet;

NORTHWESTERLY fourteen and 23/100 (14.23) feet;

NORTHEASTERLY by a line in part in a party wall sixty-three and 97/100 (63.97) feet;

EASTERLY by a line in a party wall ten and 27/100 (10.27) feet;

NORTHERLY twenty-five and 28/100 (25.28) feet;

EASTERLY by other land of the Grantor one hundred twenty-one and 96/100 (121.96) feet;

SOUTHWESTERLY by a private way shown on said Plan as "New Hawley Place" and by Hawley Street, one hundred seventy-one and 80/100 (171.80) feet;

SOUTHEASTERLY by Hawley Street one hundred nineteen and 51/100 (119.51) feet;

SOUTHERLY by a curved line near the intersection of Hawley Street and Franklin Street thirteen and 46/100 (13.46) feet; and

SOUTHWESTERLY by other land of the Grantor, shown on said Plan as "New Franklin Street," two hundred sixteen and 60/100 (216.60) feet.

All as shown on said Plan.

Containing 57,937 square feet of land according to said Plan.

Together with the fee to the centerline of New Hawley Place, as said New Hawley Place is more particularly shown on a plan entitled "Boston Redevelopment Authority Central Business District Urban Renewal Area Project No. Mass R-82 Boston, Suffolk County, Massachusetts Reconveyance Plan Hawley Place", dated August 15, 1967, by Chas. T. Main, Inc., recorded with Suffolk Registry of Deeds, and certain appurtenant rights as set forth in that certain Deed recorded in the Suffolk County Registry of Deeds in Book 8149, Page 271.

EXHIBIT A - Z

(Survey of BRA Parcel)
(To be supplied by BRA)

Site Plan

(To be supplied)

33 ARCH
DESIGN SUBMISSION

Site Plan

Grade Level Plan

Typical Garage Floor Plan

Typical Office Level Plan

Franklin St. Elevation

Arch St. Elevation

Washington St. Elevation

Milk St. Elevation

Building Section

School St. Perspective

Washington St. Perspective

1" = 40' Model

EXHIBIT D

PERMITS AND APPROVALS

AGENCY

Federal

Notification of construction;
Approval of building lighting

Federal Aviation
Administration

Storm Water Run-off Permit
(if necessary)

United States Environmental
Protection Agency (National
Pollution Discharge
Elimination System program)

Commonwealth of Massachusetts

MEPA Certification

Massachusetts Executive
Office of Environmental
Affairs

Sewer Connection and
Extension Permit

Massachusetts Department of
Water Pollution Control

(NOTE: Approval of Boston
Water and Sewer Commission
also required)

Sewer Use Discharge Permit
(or letter waiver)

Massachusetts Water
Resources Authority

Approval of plans for furnaces,
boilers or other fuel-burning
equipment (if generating capacity
exceeds specified levels)

Massachusetts Department of
Environmental Protection

Determination of Adverse
Effect

Massachusetts Historical
Commission

City of Boston

Certificate of Compliance

Boston Redevelopment Authority

Approval of Project Plans

Boston Civic Design
Commission

Approval of Development Plan
Approval of Text Amendment
and PDA Map Amendment

Boston Zoning Commission

PERMITS AND APPROVALS

AGENCY

City of Boston (cont'd).

Exceptions and Conditional Use
Permits; Building Code Variances

Board of Appeal

-building height
-FAR
-maximum average floor plate area
-on-site child care requirements
-street wall height (if necessary)
-tower separation (if necessary)
-off-street loading (if necessary)
-setback requirements (if necessary)

Confirmation of exemption for
proposed 196 additional parking
spaces, permission to continue
to use the existing spaces
pursuant to the "Procedures and
Criteria for the Issuance of
Parking Freeze Permits," and to
use the facility during off-peak
hours

Boston Air Pollution Control
Commission

Approval of storage of gasoline
in vehicle tanks parked in a
structure, and approval of
construction and maintenance of
an open-air parking facility

Boston Public Safety
Commission Committee
on Licenses

Water Pollution Permit
(if necessary)

Massachusetts Department of
Environmental Protection,
Division of Water Pollution
Control

Approval of Sewer Permit

Boston Water and Sewer
Commission

Approval of Hawley Street
Air Rights and Recladding
Easements

Public Improvements
Commission

Demolition Permits

Building Permits

Inspectional Services

Certificates of Occupancy

Inspectional Services

Certificate(s) of Completion

Boston Redevelopment Authority

DEVELOPMENT IMPACT PROJECT AGREEMENT
INCLUDING PROVISIONS FOR THE JOBS CONTRIBUTION GRANT
FOR PLANNED DEVELOPMENT AREA NO. 39
THIRTY-THREE ARCH

THIS AGREEMENT (the "Agreement") is made as of this 13th day of September, 1990 between the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate, created pursuant to Chapter 121B of the Massachusetts General Laws, as amended, having an office at One City Hall Plaza, Boston, Massachusetts 02201 (hereinafter, the "Authority"), and FRANK-KING ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership having an address c/o Kingston Investors Corporation, 430 Park Avenue, New York, New York 10022 (together with its successors, assigns and legal representatives, the "Applicant"). The Authority and the Applicant are hereinafter sometimes referred to collectively herein as the "parties". The general partners of the Applicant are Kingston Washington Associates Limited Partnership, a New York limited partnership, and Bowo Associates Limited Partnership, a Massachusetts limited partnership. Its limited partner is Nynex Properties Company, Inc., a Delaware corporation.

WHEREAS, the Applicant proposes the construction of approximately 598,085 gross square feet of new development, including a 21-story office building above an existing parking facility and an extension of the parking facility (the "Project") on the parcel bounded by Washington, Franklin,

Hawley and Arch Streets in Boston's Midtown Cultural District (the "Project Site"); and

WHEREAS, the Project Site is to be comprised of a parcel containing approximately 58,819 square feet of land owned by the Applicant, as more particularly described in Exhibit A attached hereto and by this reference incorporated herein, and an adjacent parcel containing approximately 5,101 square feet of land to be acquired by the Applicant from the Authority, as more particularly described in Exhibit B attached hereto and by this reference incorporated herein, and will contain, in total, approximately 63,920 square feet of land; and

WHEREAS, the Project constitutes a Development Impact Project as defined in Section 26A-2(1) of Article 26A of the Boston Zoning Code (as in existence as of the date hereof, the "Code") and Section 26B-2(1) of Article 26B of the Code; and

WHEREAS, the Neighborhood Housing Trust referenced in Article 26A of the Code (the "Housing Trust") was created by Declaration of Trust dated November 19, 1985, pursuant to an Ordinance Establishing The Neighborhood Housing Trust, passed by the Boston City Council on May 21, 1986 and approved by the Mayor of the City of Boston on June 6, 1986; and

WHEREAS, the Neighborhood Jobs Trust referenced in Article 26B of the Code (the "Jobs Trust") was created by Declaration of Trust dated November 19, 1985, pursuant to an Ordinance Establishing The Neighborhood Jobs Trust passed by the Boston City Council on August 19, 1987 and approved by the Mayor of the City of Boston on September 8, 1987;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE I
DEVELOPMENT IMPACT PROJECT PLAN

1.1 Development Impact Project Plan. The Applicant has submitted to the Authority a Development Plan and Development Impact Project Plan for the Project (hereinafter, the "Plan") in accordance with the requirements of Section 26A-3 of Article 26A and Section 26B-3 of Article 26B of the Code. A copy of the Plan is attached hereto as Exhibit C and by this reference incorporated herein.

The Plan was approved by vote of the Authority on _____ after a public hearing held on September 13, 1990, notice of which was published in the Boston Herald on September 6, 1990.

The Applicant will proceed with the planning and design for the Project in accordance with the Plan and in accordance with the Final Project Impact Report, both as approved by the Authority for the Project.

ARTICLE II
LINKAGE PAYMENT

2.1 Linkage Payment. The Applicant shall make a Development Impact Project Contribution, as such term is defined in Section 26A-2(3) of Article 26A of the Code (hereinafter, the "Linkage Payment") in accordance with the provisions of this Agreement.

The Applicant's obligation to make the Linkage Payment shall be satisfied either (a) by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston, in accordance with the provisions of Section 2.2 of this Agreement (the "Housing Creation Option"); or (b) by making payments to the Collector-Treasurer of the City of Boston, as managing trustee of the Housing Trust, in accordance with the provisions of Section 2.3 of this Agreement (the "Housing Payment Option"); or (c) by a combination of both the Housing Creation Option and the Housing Payment Option, in accordance with the provisions of Section 2.4 of this Agreement.

2.2 Housing Creation Option.

(a) Housing Construction or Housing Creation Payment. In the event the Applicant desires to satisfy its obligation to make all or a portion of the Linkage Payment by a contribution to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston, the Applicant shall submit a proposal in writing to the Authority on or before the Payment Date (as such term is defined in Section 2.9 hereof). The Applicant may propose to satisfy the Housing Creation Option by causing such units to be constructed (the "Housing Construction"), or by making a contribution to the Authority for the creation of such units (the "Housing Creation Payment").

(b) Housing Construction. In the event the Applicant proposes to satisfy the Housing Creation Option by effecting the Housing Construction, the Applicant's proposal (the "Proposal for Housing Construction") shall include a description of the number, location, cost and design of the housing units to be constructed. The Proposal for Housing Construction shall comply with the requirements of the Housing Creation Regulations promulgated by the Authority on April 17, 1986 pursuant to Articles 26 and 26A of the Boston Zoning Code (the "Housing Creation Regulations"), and shall be subject to the approval of the Authority, after public notice and hearing. The Authority shall not unreasonably withhold or delay its approval, nor make its approval contingent upon or in any way to require, directly or indirectly, the payment of any additional fees or charges. The Proposal for Housing Construction, approved in accordance with the Housing Creation Regulations, shall satisfy the provisions of the Housing Creation Exaction set forth in Section 26A-1(3)(a) of Article 26A of the Boston Zoning Code. The Applicant shall comply with all requirements of the Housing Creation Regulations in performing its Linkage Payment obligations pursuant to the approved Proposal for Housing Construction.

(c) Housing Creation Payment. In the event the Applicant proposes to satisfy the Housing Creation Option by making the Housing Creation Payment, the Applicant's

proposal shall set forth the Housing Creation Payment to be made in accordance with Sections 2.2(d)-(g) hereof.

Subject to the approval of such proposal by the Authority (which approval shall not be unreasonably withheld or delayed, nor made contingent upon or in any way to require, directly or indirectly, the payment of any fee or charge), the Applicant shall perform the Housing Creation Option by making the payment described in the above-described proposal. Such payment shall satisfy the provisions of the Housing Creation Exaction set forth in Section 26A-1(3)(a) of Article 26A of the Boston Zoning Code.

(d) Amount of Housing Creation Payment. Under the Housing Creation Payment option, the Applicant shall contribute to the Authority a Housing Creation Payment in an amount equal to the Net Present Value (hereinafter defined) of the total Linkage Payment for the Project which would otherwise be paid under the Housing Payment Option in seven (7) equal annual installments in accordance with Section 26A-2(3)(b) of the Code (determined in accordance with the provisions of Section 2.6 hereof). The Net Present Value shall be calculated as of, and shall be due and payable on, the Payment Date (as defined in Section 2.9 hereof). For purposes of this Agreement, "Net Present Value" shall mean the value of an amount of money equal to the sum of all payments, discounted from the Payment Date through the date on which the final installment under the

Housing Payment Option would have been due, which would have been made by the Applicant had the Applicant elected to satisfy its obligations under Article 26A of the Code to make a Linkage Payment by performing the Housing Payment Option, and shall be determined by applying the Composite Discount Rate (hereinafter defined) to the payments that the Applicant would have made under the Housing Payment Option. The Composite Discount Rate shall be equal to the sum of (i) fifty percent (50%) of the Applicant's verified cost of funds for the construction of the Project and (ii) fifty percent (50%) of the then current (or most recently published) yield on ten-year municipal bonds issued by the City of Boston.

(e) Failure to Obtain Requisite Approval before Payment Date. In the event the Applicant shall have failed to secure the approval of its election to perform the Housing Creation Payment option from the Authority by the Payment Date, the Applicant shall pay to the Authority by the Payment Date an amount equal to the installment of the Linkage Payment that would have been due on the Payment Date if the Applicant were performing the Housing Payment Option, calculated in accordance with Section 2.6 hereof, and shall deliver to the Authority by the Payment Date an assignable letter of credit as described in Section 2.3(d) hereof. If the Applicant shall have failed to secure the approval of its election to perform the Housing Creation

Payment option from the Authority by the first (and, if applicable, any subsequent) calendar anniversary of the Payment Date, the Applicant shall pay to the Authority on (each) such anniversary an amount equal to the installment of the Linkage Payment that would have been due on such anniversary if the Applicant were performing the Housing Payment Option, calculated in accordance with Section 2.6 hereof. In the event the Applicant makes any payments described in the immediately preceding sentence, the Applicant shall have the right to cause the amount of the letter of credit delivered to the Authority to be reduced, in accordance with Section 2.3(d) hereof.

(f) Late Payments. In the event the Housing Creation Payment is not made in a timely manner as provided herein, the Applicant shall pay interest thereon at the rate of one and one-half percent (1.5%) per month, commencing on the date when payment should have been received by the Authority and ending on the date on which the Authority receives payment.

(g) Approval of Housing Creation Option. In the event the Applicant shall secure the approval of its election to perform the Housing Creation Payment option from the Authority after having made payments to the Authority in accordance with Section 2.2(c) hereof, (i) the aggregate amount of such payments shall be credited against the amount of the Housing Creation Payment due under this

Section 2.2, and (ii) notwithstanding any provision to the contrary contained herein, the Applicant shall have at least thirty (30) days to deliver the then outstanding balance of the Housing Creation Payment to the Authority. Upon receipt of the outstanding balance of the Housing Creation Payment, the Authority shall deliver to the Applicant any letter of credit previously issued on behalf of the Applicant.

2.3 Housing Payment Option.

(a) Linkage Payment under Housing Payment Option.

The Applicant shall fulfill the Housing Payment Option by making a contribution to the Collector-Treasurer of the City of Boston (the "Collector-Treasurer"), as managing trustee of the Housing Trust, in seven (7) equal annual installments. The first installment shall be paid by or on the Payment Date (as defined in Section 2.9 hereof), and succeeding installments shall be paid without interest by or on each of the six (6) next following calendar anniversaries of the Payment Date.

(b) Amount of Linkage Payment under Housing Payment Option. The Linkage Payment shall be in an amount calculated in accordance with the provisions of Section 2.6.

(c) Late Payment. In the event any Linkage Payment installment is not made in a timely manner as provided herein, the Applicant shall pay interest thereon at the rate of one and one-half percent (1.5%) per month,

commencing on the date when payment should have been received by the Collector-Treasurer and ending on the date on which the Collector-Treasurer receives payment.

(d) Letter of Credit. If the Applicant satisfies its obligation to make the Linkage Payment by fulfilling the Housing Payment Option or a combination which includes the Housing Payment Option, or has not secured the approval of the Authority of its election to perform the Housing Creation Option by the Payment Date, the Applicant shall deliver to the Authority by or on the Payment Date an assignable letter (or letters) of credit for the benefit of the Housing Trust (the "Letter of Credit") in an amount equal to (x) the total Linkage Payment due, less (y) the amount of the first annual installment paid by or on the Payment Date.

(i) The Letter of Credit shall remain in full force and effect until the entire Linkage Payment shall have been paid (it being agreed and understood that the Letter of Credit may, subject to the terms hereof, have an expiration date earlier than the expiration of the six-year period during which the Applicant's obligations under the Housing Payment Option would remain outstanding, so long as such Letter of Credit authorizes the Authority to draw upon it if not replaced or extended at least thirty (30) days prior

to its expiration date). The Letter of Credit shall be for a period of not less than one (1) year. In the event that any installment due hereunder remains outstanding as of the date thirty (30) days before the expiration of such Letter of Credit, such Letter of Credit shall, at least thirty (30) days before such expiration, be extended or replaced with a substitute Letter of Credit with a term of not less than one (1) year.

(ii) The Letter of Credit shall provide that it is payable upon presentation to the issuer of a certified statement by the Director of the Authority or by the Collector-Treasurer stating that (A) a payment obligation secured by the Letter of Credit has not been timely satisfied or (B) the Letter of Credit, as the same may have been extended, has not been extended (or further extended, as the case may be) prior to thirty (30) days before its expiration, as required by the terms of this Agreement.

(iii) The Applicant may, by tendering evidence of the receipt by the Collector-Treasurer of an installment of the Linkage Payment (other than the initial installment), reduce the amount of the Letter of Credit by the amount of such payment. In connection with the foregoing, the Authority agrees to take all actions which may be necessary or appropriate to

enable the Applicant to implement such reduction, including without limitation providing its written consent to any amendment to the Letter of Credit or exchanging the Letter of Credit for one or more substitute letters of credit having the reduced principal amount.

2.4 Combination of Options. If the Applicant elects to fulfill its obligation to make the Linkage Payment by a combination of the Housing Creation Option and the Housing Payment Option, the Applicant shall notify the Authority of such election not later than sixty (60) days prior to the Payment Date and shall submit to the Authority a proposal outlining the proposed form of the contribution at the time such notification is given. If such proposal is approved in writing by the Authority (which approval shall not be unreasonably withheld or delayed, nor made contingent upon or in any way to require, directly or indirectly, the payment of any fee or charge by the Applicant or any transferee or assignee), the Applicant shall have the right to make the Linkage Payment in accordance with the terms of the proposal.

2.5 Conversion to Housing Creation Option. If, after having elected the Housing Payment Option or a combination of the Housing Payment and Housing Creation Options, but before having paid all of the installments due thereunder, the Applicant shall desire to elect the Housing Creation Option, the Applicant shall submit a written proposal of its conversion

to such Option to the Authority. If such proposal is approved in writing by the Authority (which approval shall not be unreasonably withheld or delayed, nor made contingent upon or in any way to require, directly or indirectly, the payment of any fee or charge), the Applicant shall have the right to satisfy its Linkage Payment obligations in accordance with the terms of the proposal. Such approved proposal, if duly performed by the Applicant, shall satisfy the obligation of the Applicant to make any remaining installment payments due under the originally-elected Option and shall satisfy the Applicant's Linkage Payment obligations.

2.6 Calculation of Linkage Payment. The parties hereto acknowledge that the Project will include certain uses enumerated in Table D of Article 26A of the Code (collectively, the "Table D Uses"), including, without limitation, office and retail uses. A copy of Table D is attached hereto as Exhibit D.

Although it is anticipated that the aggregate gross floor area of the Project devoted to one or more Table D Uses, as calculated by the Project Architect (identified in the Plan) in accordance with the Code, will exceed One Hundred Thousand (100,000) gross square feet, the actual aggregate gross floor area of the building to be devoted to such uses has not yet been finally established. However, based upon the schematic drawings for the Project submitted to the Authority as of the date hereof, the aggregate gross floor area devoted to such uses will approximate a total of 497,785 square feet.

The total amount of the Linkage Payment, calculated at the rate of \$5.00 for each square foot of gross floor area devoted to one or more Table D Uses in excess of One Hundred Thousand (100,000) gross square feet, will approximate a total of \$1,988,925.00.

2.7 Final Adjustment to Reflect Actual Area. The parties hereto acknowledge that the amount of the Linkage Payment as calculated above is based upon gross floor areas as estimated in the Plan. If the final aggregate gross floor area devoted to one or more Table D Uses, as certified by the Project Architect (as identified in the Plan), differs from the above-stated estimate, the Applicant shall adjust the amount of the Linkage Payment in accordance with Article 26A of the Code to reflect the actual aggregate gross floor area devoted to one or more Table D Uses.

2.8 No Modification to Formula. The Authority hereby agrees that, subject only to the adjustment provisions contained in Section 2.7 of this Agreement, any change after the date of approval of the Plan by the Authority's Board (a) in the formula for the calculation of the Linkage Payment as set forth in Section 26A-3(2) of Article 26A of the Code, or in any other regulation or procedure relating to the Linkage Payment promulgated or followed by the Authority, or (b) in the definition of "gross floor area" from that set forth in Section 2-1(21) of Article 2 of the Code as of the date hereof, shall not in any way affect the Linkage Payment due and payable

by the Applicant as determined in accordance with Section 2.5 of this Agreement.

2.9 Payment Date. The Payment Date shall be the date on which the initial building permit (hereinafter defined) is issued for the Project. For purposes of this Agreement, the "initial building permit for the Project" shall be deemed to refer to the first building permit issued in connection with construction of the office building described in the Plan (including, by way of example but not of limitation, any excavation, foundation or other subsurface work undertaken in connection therewith), and shall not refer to any building or other permits or approvals issued in connection with the demolition of any structures (or portions thereof) now existing on the Project Site, or the conducting of borings, soils investigations or other similar activities, or any work undertaken in connection with the renovation of the Meyer's parking facility. It is anticipated that a building permit for the Project as described in the Plan will be issued in approximately January of 1991.

2.10 Non-Accrual of Linkage Payment. In the event that (a) a building permit is not granted for the Project, as a result of the Applicant's abandonment of the Project or for any other reason, or (b) the Project is abandoned after a building permit has been obtained but prior to the commencement of significant construction thereunder, the Applicant shall have no responsibility for the payment of any portion of the Linkage

Payment due under the terms of this Agreement or the performance of any obligations to be performed by the Applicant hereunder. In the event that a building permit issued for the Project is revoked, or lapses and is not subsequently renewed, after commencement of significant construction under the initial building permit, as a result of the Applicant's abandonment of the Project or for any other reason, the Applicant shall have no responsibility for the payment of any portion of the Linkage Payment which under the terms of this Agreement is not yet due and payable as of the date of such revocation or lapse, nor any further responsibility for the performance of any obligations to be performed by the Applicant hereunder.

2.11 Credit Towards Linkage Payment. If the City of Boston should hereafter impose, assess or levy any excise or tax upon the Project, the proceeds of which are dedicated, in whole or in part, to the establishment of a fund for purposes substantially the same as the purposes recited in Section 26A-1 of Article 26A of the Code, the amounts payable hereunder by the Applicant shall be credited against such tax or excise; provided, however, that if such a credit shall not be legally permissible to satisfy the payment of such tax or excise, the obligations of the Applicant hereunder shall, to the extent of the amount of such tax or excise, thereupon cease and thereafter be of no further force or effect.

2.12 Assignment of Linkage Payment. The Applicant and the Authority acknowledge and agree that the Housing Trust and/or

the Authority may, at any time while any obligations of the Applicant under Article 26A of the Code remain outstanding, and subject only to the final two sentences of this Section 2.12, assign and convey all of its right, title and interest in and to any of the then remaining annual installments of the Linkage Payment payable by the Applicant. In the event that the Housing Trust and/or the Authority assigns and conveys all of its right, title and interest in and to any of the remaining annual installments of the Linkage Payment, the parties hereto agree to execute any documents reasonably required by the other to evidence such assignment, and thereafter the Applicant shall pay the assigned annual installments of the Linkage Payment to the assignee. The Housing Trust and the Authority shall deliver to the Applicant a statement, in recordable form, acknowledging that upon payment of all the assigned annual installments of the Linkage Payment to such assignee, the Applicant shall have satisfied its obligations under Article 26A of the Code to make the Linkage Payment and shall have no further obligation to either the Authority or the Housing Trust (or, if less than all of the then remaining annual installments shall have been so assigned, setting forth the total amount of the Applicant's obligations to make the Linkage Payment that will remain outstanding after such payments shall have been made to the assignee). The Authority and the Housing Trust shall deliver such statement to the Applicant with the notice of any assignment hereunder.

ARTICLE III
JOBS CONTRIBUTION GRANT

3.1 Jobs Payment. The Applicant shall make a Jobs Contribution Grant, as such term is defined in Section 26B-2(3) of Article 26B of the Code (hereinafter, the "Jobs Payment"), in accordance with the provisions of this Agreement.

The Jobs Payment shall be made to the Collector-Treasurer as custodian, pending acceptance of such payments for the Jobs Trust by the City. The Authority hereby agrees that delivery of such payments to the Collector-Treasurer shall constitute full satisfaction of the Applicant's obligation to make the Jobs Payment.

3.2 Jobs Payment Date. The Jobs Payment shall be made in two (2) equal annual installments. The first installment of the Jobs Payment shall be due and payable upon the Payment Date. The remaining installment shall be due and payable without interest on the first calendar anniversary of the Payment Date.

In the event any Jobs Payment installment is not made in a timely manner as provided herein, the Applicant shall pay interest thereon at the rate of one and one-half percent (1.5%) per month, commencing on the date when payment should have been received by the Collector-Treasurer and ending on the date on which the Collector-Treasurer receives payment.

3.3 Calculation of Jobs Payment. The parties hereby acknowledge that the Project will include certain uses enumerated in Table E of Section 26B-3 of Article 26B of the

Code (collectively, the "Table E Uses"), including, without limitation, office and retail uses. A copy of Table E is attached hereto as Exhibit E.

Although it is anticipated that the aggregate gross floor area of the Project devoted to one or more Table E Uses, as calculated by the Project Architect (identified in the Plan) in accordance with the Code, will exceed One Hundred Thousand (100,000) gross square feet, the actual aggregate gross floor area of the building to be devoted to such Uses has not yet been finally established. However, based upon the schematic drawings for the Project submitted to the Authority as of the date hereof, the aggregate gross floor area devoted to such uses will approximate a total of 497,785 square feet.

The total amount of the Jobs Payment, calculated at the rate of \$1.00 for each square foot of gross floor area devoted to one or more Table E Uses in excess of One Hundred Thousand (100,000) square feet, will approximate \$397,785.00.

3.4 Adjustment to Reflect Actual Area. The parties hereto acknowledge that the amount of the Jobs Payment as calculated above is based upon gross floor areas as estimated in the Plan. If the actual aggregate gross floor area devoted to one or more Table E Uses, as certified by the Project Architect (as identified in the Plan), differs from the above-stated estimate, the Applicant shall adjust the amount of the Jobs Payment in accordance with Article 26B of the Code to reflect the actual aggregate gross floor area devoted to one or more Table E Uses.

3.5 No Modification to Formula. The Authority hereby agrees that, subject only to the adjustment provisions contained in Section 3.4 of this Agreement, any change after the date of approval of the Plan by the Authority's Board in (a) the formula for the calculation of the Jobs Payment as set forth in Section 26B-3(1) of Article 26B of the Code or any other regulation or procedure relating to the Jobs Payment promulgated or followed by the Authority, or (b) the definition of "gross floor area" from that set forth in Section 2-1(21) of Article 2 of the Code, shall not in any way affect the Jobs Payment due and payable by the Applicant as determined in accordance with Section 3.3 of this Agreement.

3.6 Non-Accrual of Jobs Payment. In the event that (a) a building permit is not granted for the Project, as a result of the Applicant's abandonment of the Project or for any other reason, or (b) the Project is abandoned after a building permit has been obtained but prior to the commencement of significant construction thereunder, the Applicant shall have no responsibility for the payment of any portion of the Jobs Payment due under the terms of this Agreement or the performance of any obligations to be performed by the Applicant hereunder. In the event that a building permit issued for the Project is revoked, or lapses and is not subsequently renewed, after commencement of significant construction under the initial building permit, as a result of the Applicant's abandonment of the Project or for any other reason, the

Applicant shall have no responsibility for the payment of any portion of the Jobs Payment which under the terms of this Agreement is not yet due and payable as of the date of such revocation or lapse, nor any further responsibility for the performance of any obligations to be performed by the Applicant hereunder.

3.7 Credit Toward Jobs Payment. If the City of Boston should hereafter impose, assess, or levy any excise or tax upon the Project, the proceeds of which are dedicated, in whole or in part, to the establishment of a fund for purposes substantially the same as the purposes recited in Section 26B-1 of Article 26B of the Code, the amounts payable hereunder by the Applicant shall be credited against such tax or excise; provided, however, that if such a credit shall not be legally permissible to satisfy payment of such tax or excise, the obligations of the Applicant hereunder shall, to the extent of the amount of such tax or excise, thereupon cease and be of no further force or effect.

ARTICLE IV RESIDENT CONSTRUCTION EMPLOYMENT PLAN

4.1 Boston Residents Construction Employment Standards.
In connection with the Project, the Applicant shall execute a Boston Residents Construction Employment Plan (the "Employment Plan"), consistent with the requirements of the Boston Residents Jobs Policy established by Chapter 30 of the Ordinances of 1983 and the Mayor's Executive Order Extending the Boston Residents Job Policy dated July 12, 1985, which

shall detail the Applicant's plans to use good faith efforts to ensure that its general contractor, and those engaged by such general contractor for construction of the Project, on a craft by craft basis, shall use good faith efforts to meet the following Boston Residents Construction Employment Standards: (a) at least fifty percent (50%) of the total employee worker hours in each trade shall be by bona fide Boston residents; (b) at least twenty-five percent (25%) of the total employee worker hours in each trade shall be by minorities; and (c) at least ten percent (10%) of the total employee worker hours in each trade shall be by women. The Employment Plan shall include provisions for monitoring compliance and enforcing sanctions for non-compliance. "Worker hours" shall be defined in the Employment Plan to include on-the-job training and apprenticeship positions.

ARTICLE V EMPLOYMENT OPPORTUNITY PLAN

5.1 Employment Opportunity. The Applicant shall also execute a Memorandum of Understanding and a First Source Agreement with the Mayor's Office of Job and Community Services in connection with the Project. The Memorandum of Understanding shall set forth an Employment Opportunity Plan representing the Applicant's good faith effort to provide that fifty percent (50%) of certain employment opportunities created by the Project will be made available to Boston residents. The First Source Agreement with the Mayor's Office of Job and Community Services shall provide for the Applicant to use the

services of the Private Industry Council-sponsored "Boston for Boston" placement office employment referral before embarking on a general recruitment effort to fill entry-level positions within the Project.

ARTICLE VI LIABILITY

6.1 Scope of Applicant's Liability. In the event the Project is abandoned, the Applicant shall, promptly after such abandonment, file with the Authority an affidavit stating that the Project has been abandoned and the date of such abandonment. This Agreement is expressly made subject to the provisions of Section 18 of the Cooperation Agreement between the Authority and the Applicant, which provisions are incorporated by reference herein. If the satisfaction of any claim or the collection of a judgment or other judicial process against the Applicant or its successors and assigns in connection with the Project requires the payment of money, the Authority agrees to look solely to the interest of the Applicant or its successors and assigns in and to the Project and/or the Project Site, as the case may be, for such satisfaction or collection.

No holder of a mortgage, deed of trust or other similar instrument on the Project, the Project Site, or any portion thereof, as the case may be, shall be liable to perform, or be liable in damages for any failure to perform, any of the obligations of the Applicant. In the event that such holder shall have acquired title to the Project and/or the Project

Site, as the case may be, by foreclosure or deed or assignment in lieu of foreclosure, the liability of such holder shall be limited to the amount of its interest in and to the Project and/or the Project Site, as the case may be.

6.2 Personal Liability. Neither the Applicant nor any successor or assign of the Applicant, nor any trustee, beneficiary, partner, stockholder, manager, officer, director, agent or employee of the Applicant or any such successor or assign (including, without limitation, mortgagees) shall be personally or individually liable under this Agreement, nor shall it or they be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Project. This Section 6.2 shall not prohibit or limit an action seeking injunction or similar relief or remedy, or specific enforcement of the Applicant's obligations under this Agreement.

ARTICLE VII MISCELLANEOUS PROVISIONS

7.1 Amendments; Law to be Applied. If the parties hereto agree hereafter to amend this Agreement, such amendment shall be in writing and executed by the parties hereto unless otherwise explicitly set forth herein.

This Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts, and sets forth the entire agreement between the parties. This Agreement is binding and enforceable under contract law upon, and inures to the benefit of, the parties, their successors,

assigns, and legal representatives (including, without limitation, any successor owner or owners of the improvements), the Housing Trust and the Jobs Trust, and shall not be affected by any subsequent amendment or repeal of Article 26A or Article 26B of the Code or by any court decision or agreement having the effect of an amendment or repeal of Article 26A or Article 26B of the Code.

7.2 Capitalized Terms. The capitalized terms used herein without definition shall have the meanings ascribed to them in Article 2 or Article 26A or Article 26B of the Code as in existence on the date hereof, unless otherwise provided.

7.3 Compliance with Development Impact Project Plan. The Authority hereby acknowledges approval of the Plan, as voted by the Authority on _____. The Applicant hereby agrees that the Project shall be constructed in accordance with the Plan (it being agreed and understood that nothing contained herein shall impose an affirmative obligation on the Applicant to construct the Project).

7.4 Knowledge of Laws. The Applicant shall at all times observe and comply with all laws, ordinances, orders and regulations affecting the Project (collectively, the "laws and ordinances") and shall protect and indemnify the City of Boston and the Authority, its officers, agents and employees against any claim or liability arising from or based upon the violations of such laws and ordinances caused by any negligent act or omission of the Applicant, its agents or employees.

7.5 Notice. Any notice required under this Agreement shall be in writing, signed by a duly-authorized officer or representative of the party giving such notice, and shall be delivered by hand or by recognized overnight delivery service, or mailed postage prepaid, by certified or registered mail, return receipt requested, to the parties at the following addresses (or such other address as a party hereto may have specified to the other by notice as herein provided):

Authority: Boston Redevelopment Authority
Director's Office
City Hall Square
Boston, MA 02201

with a copy to: Boston Redevelopment Authority
Chief General Counsel
City Hall Square
Boston, MA 02201

Applicant: Frank-King Associates Limited
Partnership
c/o Kingston Investors Corporation
430 Park Avenue
New York, New York 10022
Attn: Mr. E. Peter Krulewitch

with a copy to: Old State Management Corporation
Exchange Place
37th Floor
53 State Street
Boston, MA 02109-2881
Attention: Mr. Edward Zielinski

and with a copy to: Goodwin, Procter & Hoar
Exchange Place
53 State Street
Boston, MA 02109-2881
Attention: Paul F. McDonough, Jr., Esq.

A notice shall be deemed to have been given on the earlier of (a) the date received, or (b) the date of delivery, refusal or non-delivery indicated on the return receipt.

7.6 Recording. The Applicant shall, if permitted, record at the Suffolk County Registry of Deeds (the "Registry"), a notice of this Agreement promptly after the execution thereof by all parties. If the Applicant fails promptly to record such notice, the Authority shall have the right, upon notice to the Applicant, to cause such notice to be recorded in the Registry.

At any time while the Applicant's obligations to make the Linkage Payment and/or the Jobs Payment remain outstanding, the Authority agrees, within ten (10) business days after request therefor by the Applicant, to assist the Applicant in obtaining from the Collector-Treasurer, a certification, in recordable form, setting forth the remaining obligations of the Applicant with respect to the Linkage Payment and the Jobs Payment. Upon satisfaction by the Applicant of its obligations to make the Linkage Payment and the Jobs Payment and within ten (10) business days after request therefor by the Applicant, the Authority shall assist the Applicant in obtaining from the Collector-Treasurer, a certification, in recordable form, acknowledging that the Applicant's obligations to make the Linkage Payment, the Jobs Payment or both, as the case may be, have been satisfied by the Applicant and that the Applicant has no further liability for or obligation with respect to such Linkage Payment and/or Jobs Payment.

7.7 Satisfaction of Development Impact Project Requirements. The Authority hereby acknowledges that, by executing this Agreement, the Applicant has satisfied the

requirements of Section 26A-3(2) of Article 26A and Section 26B-3(1) of Article 26B of the Code, insofar as the satisfaction of the requirements of those Sections is a precondition to the granting, allowing or adopting of a variance, conditional use permit, exception or zoning map or text amendment with respect to the Applicant's development of the Project Site.

7.8 Headings. The headings to this Agreement and its articles and sections are intended solely to facilitate reading and referencing its provisions. Such headings shall not affect the meaning or interpretation of this Agreement.

7.9 Transfer of Project. It is agreed and understood that the Applicant shall have the right, subject to the terms of this section, to transfer or assign its rights and interests in and under this Agreement and any other agreement or document now or hereafter entered into between the Applicant and the Authority in connection with the Project, or delivered to the Authority by or on behalf of the Applicant or issued by or on behalf of the Authority (collectively, the "Project Documents") and in all or any portion of the Project and/or the Project Site.

Notwithstanding the foregoing, for so long as any obligations of the Applicant under Article II or III hereof or under any other Project Document shall remain outstanding, the Applicant shall be required to obtain the prior approval of the Authority to transfer or assign any such rights and interests.

The Applicant shall give the Authority at least seven (7) days' prior written notice of any sale or transfer of the Developer's right to construct the Project. The Authority's approval shall not be unreasonably withheld or delayed, nor shall it be made contingent upon or in any way to require, directly or indirectly, the payment of any fee or charge by the Applicant or any transferee or assignee. In its consideration of a proposed transferee or assignee, the Authority shall have the right to require (a) information regarding such transferee or assignee which would be required to be disclosed in a statement required under M.G.L. chapter 7, Section 40J or under Article 31A of the Boston Zoning Code, and (b) a description of other development projects in which such proposed transferee or assignee has participated, together with a description of its role in each such development, but the Authority shall not have the right to review copies of any document evidencing the transaction(s) between the Applicant and such transferee or assignee other than the notice and assumption agreement described in the immediately following paragraph. As a precondition to the transfer of all or any portion of the Project, the proposed successor in title to the Applicant shall provide the Authority with security for the performance of all outstanding payment obligations hereunder (or, in the case of a transfer of a portion of the Project, the amount of the outstanding payment obligations attributable to such portion) in the form of a letter of credit for the benefit of the

Housing Trust in an amount equal to the total amount of such outstanding obligations, unless such letter of credit requirement is waived in writing by the Authority. Such a letter of credit shall be subject to the provisions of Section 2.3(d)(i)-(iii) hereof. The Applicant shall have the right to reduce the amount of any Letter of Credit required under Section 2.3(d) hereof by the amount of such successor's letter of credit, in accordance with the provisions of Section 2.3(d)(iii) hereof.

For so long as any obligations of the Applicant under Article II or III hereof or under any other Project Document shall remain outstanding, the Applicant shall, within a reasonable time after the consummation thereof, provide to the Authority written notice of any sale or transfer of (i) the right to construct the Project, if prior to the completion thereof, or (ii) the Project, if the same is then completed; which notice shall consist of (a) the name and address of the successor to the Applicant hereunder; and (b) a copy of the instrument pursuant to which the Applicant has assigned such rights to such successor, and such successor assumed the obligations of Applicant hereunder.

Notwithstanding anything to the contrary contained herein, the Applicant and its partners shall have no obligation to obtain the Authority's written approval of any Permitted Transfer. A Permitted Transfer shall include:

- (i) an involuntary transfer caused by the death or incapacity of any partner of the Applicant, or any partner, joint venturer, officer or shareholder of any such partner;
- (ii) a transfer pursuant to the provisions of any mortgage and/or security agreement, deed of trust or other similar instrument securing the payment of any loan obtained by the Applicant to finance the acquisition of any interest in the Property or the Project, or the construction, repair or reconstruction of any of the improvements required to be constructed as part of the Project pursuant to the Development Plan and/or any other Project Document, or to refinance any outstanding loan therefor obtained by the Applicant for any such purpose;
- (iii) a transfer of all or any portion of the stock ownership of any partner of the Applicant to (A) any entity which solely owns and controls, or is solely owned and controlled by, any such partner of the Applicant, or to (B) any shareholder (including, without limitation, immediate family members of such shareholder) in any such partner;
- (iv) a transfer for purposes of any reallocation among the partners of their interests in the Applicant or a transfer of the entire interest of one partner to another, so long as the aggregate interest of the managing general partner in the Applicant is not reduced below _____ percent (___%) thereby;
- (v) a transfer to any other person or entity, provided that, subsequent to such transfer, the terms of the limited partnership agreement of the Applicant provide that decisions regarding the development, financing, completion, modification, reconstruction, leasing, and any and all other major decisions concerning the development of the Project remain within the control of the original managing general partner of the Applicant; and
- (vi) a transfer of any limited partnership interest in the Applicant.

In the event of a Permitted Transfer, the Applicant shall, within a reasonable time after such transfer, deliver to the Authority notice of such transfer or change, which notice shall

include a revised Disclosure of Beneficial Interest in accordance with the requirements of M.G.L. Chapter 7, Section 40J.

7.10 Severability. Each and every agreement contained in this Agreement shall be construed to be a separate and independent agreement. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such terms to persons or circumstances other than those as to which it is involved or unenforceable shall not be affected thereby and each other term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as an instrument under seal and in their behalf by their respective officers thereunto duly authorized as of the day and year first above set forth.

Approved as to form:

BOSTON REDEVELOPMENT AUTHORITY

Chief General Counsel
Boston Redevelopment Authority

By: _____
Stephen Coyle, Director

FRANK-KING ASSOCIATES LIMITED
PARTNERSHIP

By: _____
Name: _____
Title: _____

EXHIBIT A - Legal Description of Owner's Parcel
EXHIBIT B - Legal Description of BRA Parcel
EXHIBIT C - Development Plan and Development Impact
 Project Plan
EXHIBIT D - Table D Uses
EXHIBIT E - Table E Uses

A certain parcel of land on Washington Street in the City of Boston, shown as Parcel A-6 on a two-sheet plan entitled "Boston Redevelopment Authority Central Business District--Urban Renewal Area Project No. Mass. R-82 Boston - Suffolk County - Massachusetts Delivery Parcel Plan Parcel A-6," dated August 15, 1967, by Chas. T. Main, Inc., which plan is attached as Exhibit B to a certain Land Disposition Agreement between the Boston Redevelopment Authority and Raymond's Redevelopment Associates, dated March 20, 1967, said Plan hereinafter being referred to as "Plan 1," and bounded and described as follows:

NORTHWESTERLY by Washington Street by two (2) lines measuring, respectively, one hundred twenty-four and 95/100 (124.95) feet and twenty-five and 33/100 (25.33) feet;

NORTHEASTERLY by a line in a party wall one hundred thirty-three and 80/100 (133.80) feet;

NORTHWESTERLY by a line in a party wall three and 77/100 (3.77) feet;

NORTHEASTERLY by a line in part in a party wall seventy-four and 00/100 (74.00) feet;

NORTHWESTERLY fourteen and 23/100 (14.23) feet;

NORTHEASTERLY by a line in part in a party wall sixty-three and 97/100 (63.97) feet;

EASTERLY by a line in a party wall ten and 27/100 (10.27) feet;

NORTHERLY twenty-five and 28/100 (25.28) feet;

EASTERLY by other land of the Grantor one hundred twenty-one and 96/100 (121.96) feet;

SOUTHWESTERLY by a private way shown on said Plan as "New Hawley Place" and by Hawley Street, one hundred seventy-one and 80/100 (171.80) feet;

SOUTHEASTERLY by Hawley Street one hundred nineteen and 51/100 (119.51) feet;

SOUTHERLY by a curved line near the intersection of Hawley Street and Franklin Street thirteen and 46/100 (13.46) feet; and

SOUTHWESTERLY by other land of the Grantor, shown on said Plan as "New Franklin Street," two hundred sixteen and 60/100 (216.60) feet.

All as shown on said Plan.

Containing 57,937 square feet of land according to said Plan.

Together with the fee to the centerline of New Hawley Place, as said New Hawley Place is more particularly shown on a plan entitled "Boston Redevelopment Authority Central Business District Urban Renewal Area Project No. Mass R-82 Boston, Suffolk County, Massachusetts Reconveyance Plan Hawley Place", dated August 15, 1967, by Chas. T. Main, Inc., recorded with Suffolk Registry of Deeds, and certain appurtenant rights as set forth in that certain Deed recorded in the Suffolk County Registry of Deeds in Book 8149, Page 271.

EXHIBIT B

BRA Parcel
(Legal Description)

For Development Plan and DIP Plan, see Tab No. 5

TABLE D: Development Impact Uses

<u>Use</u>	<u>Use Item Numbers</u>
Office	39, 39A, 40, 41, 42
Retail Business and Service	30, 31, 32, 34, 34A, 35, 36, 36A, 37, 37A, 38, 38A, 43, 44, 45, 46, 47, 48, 49, 60, 60A, 61
Institutional and Educational	16, 16A, 18, 19, 20, 20A, 21, 22, 22A, 23, 24, 29
Hotel and Motel, but not including Apartment Hotel	15

TABLE E: Development Impact Uses

<u>Use</u>	<u>Use Item Numbers</u>
Office	39, 39A, 40, 41, 42
Retail Business and Service	30, 31, 32, 34, 34A, 35, 36, 36A, 37, 37A, 38, 38A, 43, 44, 45, 46, 47, 48, 49, 60, 60A, 61
Institutional and Educational	16, 16A, 18, 19, 20, 20A, 21, 22, 22A, 23, 24, 29
Hotel and Motel, but not including Apartment Hotel	15

COOPERATION AGREEMENT
FOR
PLANNED DEVELOPMENT AREA NO. 39

THIRTY-THREE ARCH STREET

This COOPERATION AGREEMENT (the "Agreement") is made as of the 13th day of September, 1990 between the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate, created pursuant to Chapter 121B of the Massachusetts General Laws, as amended, with offices at One City Hall Plaza, Boston, Massachusetts 02201 (the "Authority") and FRANK-KING ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership having an address c/o Kingston Investors Corporation, 430 Park Avenue, New York, New York 10022 (the "Applicant"). The Authority and the Applicant are sometimes hereinafter referred to as the "parties." The general partners of the Applicant are Kingston Washington Associates Limited Partnership, a New York limited partnership, and Bowo Associates Limited Partnership, a Massachusetts limited partnership. Its limited partner is Nynex Properties Company, Inc., a Delaware corporation.

In consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. ZONING DESIGNATION. In order to allow construction of certain improvements proposed by the Applicant at 33 Arch Street in Boston (the "Project"), the Authority will petition the Zoning Commission of the City of Boston (the "BZC") on behalf of the Applicant to designate as a Planned Development Area ("PDA") under the Boston Zoning Code (the "Code") the city

block in Boston's Midtown Cultural District generally bounded by Washington, Franklin, Hawley and Arch Streets (the "Project Site").

The Project Site contains approximately 63,920 square feet of land. The Applicant owns the entire Project Site except for the BRA Parcel (defined below), which the Applicant is to acquire from the Authority. The parcel currently owned by the Applicant consists of approximately 58,819 square feet of land (the "FKA Parcel"), as is more particularly described in Exhibit A attached hereto and by this reference incorporated herein. The BRA Parcel (defined below) comprises the remaining portion of the Project Site.

2. BRA PARCEL ACQUISITION. A portion of the Project is to be constructed on a parcel of land adjacent to the FKA Parcel located between Arch, Milk and Hawley Streets (the "BRA Parcel"), to be acquired by the Applicant from the Authority pursuant to the provisions of a certain Land Disposition Agreement between the Applicant and the Authority dated as of _____, 1990 (the "LDA"). The BRA Parcel comprises approximately 5,101 square feet of land and is more particularly described in Exhibit B attached hereto and by this reference incorporated herein.

3. DEVELOPMENT PLAN. The Project is described in the Development Plan and Development Impact Project Plan for Planned Development Area No. 39 (the "Plan"), a copy of which is attached as Exhibit C. The Plan was approved by vote of the

Authority on _____ (the "Vote") after a public hearing held on September 13, 1990, notice of which was published in the Boston Herald on September 6, 1990. A certified copy of the Vote is attached hereto as Exhibit D.

The Plan provides for the construction of approximately 598,085 square feet of new development, including a 21-story office building to be constructed above an existing parking facility, and an extension of the parking facility (the "Project"). The office building will include approximately 487,285 square feet of office and approximately 5,000 square feet of retail lobby space; in addition, approximately 5,500 square feet of the office building will be devoted to a ground-floor lobby and pedestrian concourse linking Hawley and Arch Streets. The extension to the existing parking facility will add approximately 100,300 square feet of space to the facility and will accommodate the addition of approximately 196 parking spaces.

The Applicant will proceed with planning and design for the Project and Project Site in accordance with the Plan and in accordance with the Final Project Impact Report, both as approved by the Authority for the Project.

4. DPIR. The Applicant is in the process of completing a development review in accordance with the requirements of Article 31 of the Code and the Scoping Determination issued by the Authority on February 2, 1989. The Draft Project Impact Report ("DPIR") was submitted to the Authority on November 20,

1989 and notice thereof was published in the Boston Herald on November 27, 1989. The Authority issued an Preliminary Adequacy Determination on the DPIR in accordance with the provisions of Article 31 on May 1, 1990.

5. ARCHITECTURAL AGREEMENTS. The Applicant has engaged Shepley Bulfinch Richardson and Abbott, Inc./Craig & Boake, Inc. (the "Project Architect") to provide the drawings and specifications for the Project and to furnish customary architect's services during construction.

6. DEVELOPMENT REVIEW PROCEDURES. The parties hereto agree that the design review process required by the Plan to be observed by the parties shall be as set forth in the Authority's "Development Review Procedures," dated 1985, as revised in 1986 (the "Development Review Procedures"). Capitalized terms used and not defined herein shall have the meanings ascribed to them in the Development Review Procedures.

7. CONCEPTUAL DESIGN SUBMISSION. The Applicant has submitted to the Authority the plans listed as Exhibit C to the Plan to indicate the proposed conceptual design of the Project. The Applicant will submit additional plans for the conceptual design of the Project as required by the Authority. In addition, the Applicant will submit plans for the schematic design of the Project (the "Schematic Design") as required under the Development Review Procedures for the Schematic Design Submission. The plans listed on Exhibit C to the Plan, together with the additional plans submitted as part of the

Conceptual Design Submission and the Schematic Design Submission and approved by the Authority, are hereinafter referred to collectively as the "Project Plans." The parties hereto acknowledge and agree that formal approval of the Schematic Design Submission will be granted through the Adequacy Determination in accordance with the provisions of Article 31 of the Code. Upon approval of the Schematic Design Submission, the Applicant will make the Design Development Submission and Contract Documents Submission (as such terms are defined in the Development Review Procedures), in accordance with the requirements of the Development Review Procedures.

8. DESIGN REVIEW. The Authority shall review the Design Development Submission, the Contract Document Submission and all other submissions required under the Development Review Procedures, and shall fulfill its obligations thereunder promptly and with all reasonable dispatch. The Authority shall notify the Applicant of its approval, conditional approval or disapproval of each submission within ten (10) business days after receipt by the Authority of such submission. In the event the Authority disapproves of a submission or conditions its approval, the Authority shall provide the Applicant with a written statement detailing its reasons for such disapproval or conditions, as the case may be, at the time it notifies the Applicant of such disapproval.

The Authority shall not condition its approval upon, or in any way require, directly or indirectly, the payment of any fee or charge.

If the Authority fails to notify the Applicant of its disapproval of such submission and to provide the Applicant with the written statement described above within three (3) days after receipt of notice from the Applicant that the ten-day approval period described above has lapsed, such submission shall be deemed to have been approved by the Authority.

The Authority shall have the right, in connection with its review of the Design Development Submission, the Contract Document Submission and any other submission by the Applicant, to waive any procedure or requirement of the Development Review Procedures which the Authority deems appropriate in order better to effect the planning and design goals of the Development Review Procedures and the Authority.

Following approval of the Authority's Design Development Submission and Contract Documents Submission, the Authority shall, at the request of the Applicant, certify on every building permit application for the Project, and on every plan filed with the Inspectional Services Department, that the plans have been subject to design review and that they are consistent with the Plan for the Project, as required by Sections 3-1A(a), 26A-3.2 and 26B-3.1 of the Code.

9. CONSTRUCTION REVIEW. The Authority acknowledges that, once the Contract Documents Submission and the Final Project Impact Report have been approved, the only further submissions required to be made by the Applicant to the Authority for

review and approval under this Agreement and under the Development Review Procedures will be (a) addenda to the Contract Documents and (b) requests for change orders relating to the construction of elements of the Project or other items specified in the Project Plans which are subject to the Development Review Procedures and which differ from or were not sufficiently described in the Contract Documents. It is agreed and understood that refinements of details which are generally consistent with previously approved submissions shall not be subject to further review and approval by the Authority.

The Authority shall, within ten (10) business days after receipt of a proposed addendum to a Contract Document or change order as described above, notify the Applicant of its approval, conditional approval, or disapproval thereof. In the event the Authority disapproves of such proposed addendum or change order or conditions its approval, the Authority shall provide the Applicant with a written statement detailing its reasons for such disapproval or conditions, as the case may be, at the time it notifies the Applicant of such disapproval.

The Authority shall not condition its approval upon, or in any way require, directly or indirectly, the payment of any fee or charge.

If the Authority fails to notify the Applicant of its disapproval of such proposed addendum or change order, or to provide the Applicant with a detailed written summary of its reasons for such disapproval or conditions, as the case may be,

within ten (10) business days after receipt thereof, such addendum or change order, as the case may be, shall be deemed to have been approved by the Authority.

The Authority shall review all submissions required under this Section 9 promptly and with all reasonable dispatch.

The Authority shall have the right, in connection with its review of any submission required under this Section 9, to waive any procedures or requirements of the Development Review Procedures which the Authority deems appropriate in order better to effect the planning and design goals of the Development Review Procedures and the Authority.

10. PERMITS AND LICENSES. Throughout the permitting phase of the Project, the Authority shall, at the Applicant's reasonable request, meet with the Applicant to discuss with the Applicant the status of the Applicant's efforts to obtain from the appropriate municipal, state and federal bodies and agencies, all permits, licenses, approvals, exceptions, variances, special orders and other departures from the normal application of the zoning and building codes and other applicable ordinances and statutes which may be necessary or appropriate in order to carry out the development of the Project in the most expeditious and reasonable manner.

11. CONSTRUCTION OF THE PROJECT. The Authority shall, at any time after construction of the Project has commenced (as defined in that certain Development Impact Project Agreement between the Authority and the Applicant) and so long as work is

diligently proceeding, file with the Building Commissioner of the City of Boston, within thirty (30) days of a request therefor by the Applicant, a certificate pursuant to Section 3A-1 of the Code acknowledging that work within the PDA has commenced and is diligently proceeding. Construction shall be deemed to be proceeding diligently so long as construction on the Project is proceeding in accordance with the Plan.

12. CONDITIONS TO COMPLETION. The Project shall be deemed completed when (a) the Applicant shall have substantially completed construction of the parking facility extension and the exteriors of all buildings comprising the Project, public lobbies and concourses, entrances, arcades, open spaces and/or other capital improvements required by the Authority and/or the Boston Transportation Department to be undertaken to mitigate direct transportation impacts of the Project, all in accordance with approved construction documents, and (b) the foregoing Project elements shall all be substantially ready for occupancy, except for interior work to be performed to tenants' specifications.

13. CERTIFICATE OF COMPLETION. Upon completion of the Project in accordance with the Plan, the Authority shall issue to the Applicant a Certificate of Completion, in recordable form, which shall be conclusive evidence that the Project has been completed in accordance with the approved Plan.

The Authority shall, within forty (40) days after receipt of the Applicant's written request therefor, (a) issue a

Certificate of Completion for the Project or any phase thereof, or, (b) if the Authority shall have determined that the Project or such phase has not been completed in accordance with the approved Plan, deliver to the Applicant the statement described in this Section 13.

If the Authority has determined that the Project or such phase has not been completed in accordance with the approved Plan and that the requested Certificate of Completion ought not be issued, the Authority shall, within such forty-day period, provide the Applicant with a written statement indicating with specificity (x) in what respect the Applicant has failed to complete the Project or phase in accordance with the approved Plan or is otherwise in default of its obligations to the Authority, and (y) what measures or actions will be necessary for the Applicant to undertake or perform in order to comply with the Plan and obtain the Certificate of Completion. Upon compliance by the Applicant with the requirements specified in such statement, the Authority shall issue the appropriate Certificate of Completion to the Applicant.

14. INCORPORATION OF VISUAL ARTS. In recognition of the City's goal to broaden the exposure of visual arts in the Midtown Cultural District, the Applicant has engaged a visual arts consultant, who will be employed during each phase of design of the Project from schematics to working drawings. The consultant has met with the Visual Artists Committee of the Midtown Cultural District Task Force, and will work with the

Project's architects, landscapers, urban designers and developers to identify the opportunities for incorporating visual arts in the public realm of the Project. The consultant will continue to meet informally with the Visual Artists Committee of the Midtown Cultural District Task Force on a regular basis to review the plans and proposals for incorporating visual art into the Project that result from this collaboration.

Once appropriate spaces have been defined, the Applicant will seek proposals from local and regional artists for the display or creation of public art in the Project. The Project's visual arts opportunities include, but are not limited to: lobbies, sidewalks, facades, interior passageways, arcades, and open space. The public art work will be distributed appropriately throughout the Project.

15. NEIGHBORHOOD BUSINESS OPPORTUNITIES. The Applicant is committed to providing opportunities both for neighborhood businesses that are interested in expanding their operations in the Midtown Cultural District and individual entrepreneurs who are interested in starting a business within the District. To accomplish these goals, the Applicant will, for at least ten (10) years from the date of completion of the Project, market retail space within the Project to Neighborhood Business Establishments from Chinatown (as such terms are defined in the Code), on terms comparable to those offered to other potential users of such space, in accordance with the requirements of

Section 38-18(3) of the Code. In connection with the foregoing, the Applicant will formulate a Neighborhood Business Opportunities Plan which shall outline the measures that the Applicant will implement to market space within the Project to such Neighborhood Business Establishments, and which shall be included as part of submission required under Article 31 of the Code.

16. CHILD CARE. In connection with the Applicant's development of the Project, the Applicant has agreed to make a contribution of Five Hundred Thousand Dollars (\$500,000) to the Authority or its designee for the provision of child care facilities and services (the "Child Care Contribution"). Half of the Child Care Contribution (\$250,000) will be due and payable promptly after issuance of the initial building permit for the Project. The remaining balance of the Child Care Contribution (\$250,000) will be due and payable promptly after issuance of the final Certificate of Occupancy for the Project. It is anticipated that the Applicant's Child Care Contribution will be used to provide child care facilities, which are planned to be located off-site, and/or to expand existing child care services. The Child Care Contribution shall be governed by a separate agreement to be entered into between the Applicant and the Authority or its designee before the initial building permit for the Project is issued.

17. TRANSPORTATION. As part of the Project, the Applicant will enter into a Transportation Access Plan Agreement with the

City of Boston Transportation Department to implement various transportation mitigation measures (to be more fully detailed in the Final Project Impact Report submitted for the Project). These measures will include, but not limited to, implementation of the following transportation mitigation measures:

- On-site dissemination of route and schedule information for commuter rail, rapid transit, bus, and water transportation services.
- On-site dissemination of ride-sharing information of Caravan for Commuters, Inc.
- On-site sale of MBTA passes.
- Coordination of a reserved space program for van and car pool parking.
- Provision of incentives to building tenants to allow flextime, staggered and extended hours to employees.
- Encouragement of tenant subsidization of employees' public transportation costs.
- Contribution for capital improvements required by the Authority and/or the Boston Transportation Department to be undertaken to mitigate transportation impacts which are demonstrated to be solely and directly the result of the Project and/or its construction.

18. INFEASIBILITY TO PROCEED. If at any time after the date of execution hereof, the Applicant determines it has become infeasible to proceed with the whole or any portion of the Project as described in the Plan, the Applicant shall have

the right to cease development of and to abandon the Project. In the event of such abandonment, neither party hereto shall have any liability for the further performance of any obligation accruing after the date of such abandonment under this Agreement or any other agreement or instrument entered into between the Applicant and the Authority in connection with the Project, or delivered to the Authority by or on behalf of the Applicant, or issued by or on behalf of the Authority, including, without limitation, those documents listed on Exhibit F attached hereto and by this reference incorporated herein (collectively, the "Project Documents"). In the event the Project is abandoned, the Applicant shall, promptly upon such abandonment, file with the Authority an affidavit stating that the Project has been abandoned and the date of such abandonment.

19. ENFORCEABILITY. This Agreement sets forth the entire agreement between the parties hereto and shall be governed by the laws of the Commonwealth of Massachusetts. This Agreement is binding upon and enforceable against, and shall inure to the benefit of, the parties and their successors, assigns and legal representatives (including, without limitation, any successor owner or owners of the improvements and/or the Project Site). This Agreement is intended to be for the benefit of the parties described in the immediately preceding sentence only, and no other person or entity may seek enforcement of the terms hereof, regardless of whether such person or entity would enjoy a financial or other benefit from such enforcement.

If the satisfaction of any claim or the collection of a judgment or other judicial process against the Applicant or its successors and assigns in connection with the Project requires the payment of money, the Authority agrees to look solely to the interest of the Applicant or its successors and assigns in and to the Project and/or the Project Site, as the case may be, for such satisfaction or collection.

No holder of a mortgage, deed of trust or other similar instrument on the Project, the Project Site, or any portion thereof shall be liable to perform, or liable in damages for any failure to perform, any of the obligations of the Applicant. In the event that such holder shall have acquired title to the Project and/or the Project Site, as the case may be, by foreclosure or deed or assignment in lieu of foreclosure, the liability of such holder shall be limited to the amount of its interest in and to the Project and/or the Project Site, as the case may be.

Neither the Applicant or any successor or assign of the Applicant, nor any trustee, beneficiary, partner, stockholder, manager, officer, director, agent or employee of the Applicant or any such successor or assign (including, without limitation, mortgagees) shall be personally or individually liable under this Agreement, nor shall it or they be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the the Project.

20. BRA PARCEL ESSENTIAL. The parties agree that the BRA Parcel, now owned by the Authority, is essential to the

development of the Project in accordance with the Plan. At such time as (a) the Authority and the Applicant have entered into a certain Land Disposition Agreement, and (b) the Authority has conveyed the BRA Parcel to the Applicant, and (c) the deed thereto has been duly recorded in the Suffolk County Registry of Deeds, and (d) any other action required by applicable law or regulation for the approval of such conveyance by the Boston Zoning Commission shall have been duly performed, the BRA Parcel shall be included as part of the Project Site, and shall be deemed a part of the Project, without further action by the Authority.

21. NOTICES. Any notice required under this Agreement shall be in writing and shall be delivered by hand or by recognized overnight delivery service, or mailed by certified or registered mail, return receipt requested, to the parties at the following addresses (or such other address as a party hereto may have specified to the other by notice as herein provided):

Authority: Boston Redevelopment Authority
Director's Office
City Hall Square
Boston, MA 02201

with a copy to: Boston Redevelopment Authority
Chief General Counsel
City Hall Square
Boston, MA 02201

Applicant: Frank-King Associates Limited
Partnership
c/o Kingston Investors Corporation
430 Park Avenue
New York, New York 10022
Attn: Mr. E. Peter Krulewitch

with a copy to: Old State Management Corporation
Exchange Place
37th Floor
53 State Street
Boston, MA 02109-2881
Attention: Mr. Edward Zielinski

and with a copy to: Goodwin, Procter & Hoar
Exchange Place
53 State Street
Boston, MA 02109-2881
Attention: Paul F. McDonough, Jr., Esq.

A notice shall be deemed to have been given on the earlier of (a) the date received, or (b) the date of delivery, refusal or non-delivery indicated on the return receipt.

22. BRA APPROVAL. Whenever the consent or approval of the Authority is required under this Agreement or any other Project Document, the Development Review Procedures, or otherwise in connection with the development of the Project or the Project Site, such consent or approval shall not be unreasonably withheld, or delayed, nor shall it be made contingent upon or made in any way to require, directly or indirectly, the payment of any fee or charge by the Applicant or any other interested party, and wherever there is a requirement that any thing, act or circumstance shall be satisfactory to the Authority or shall be done and performed to the Authority's satisfaction or any other requirement of similar import, the Authority shall be subject to the standards of reasonableness and customary practice in determining the adequacy and sufficiency of the Applicant's performance.

Any request for approval made to the Authority by the Applicant where such approval will be deemed to have been

granted if the Authority fails to respond within a specified period of time shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in boldface type:

"NOTICE

THIS REQUEST FOR APPROVAL REQUIRES A PROMPT RESPONSE
FROM THE BOSTON REDEVELOPMENT AUTHORITY.
THE FAILURE OF THE BOSTON REDEVELOPMENT AUTHORITY TO RESPOND
WITHIN _____ BUSINESS DAYS SHALL RESULT
IN AN AUTOMATIC APPROVAL."

23. TRANSFER OF THE PROJECT. It is agreed and understood that the Applicant shall have the right, subject to the terms of this section, at any time to transfer or assign its rights and interests in and under this Agreement and any other Project Document and in all or any portion of the Project and/or the Project Site.

Notwithstanding the foregoing, for so long as any obligations of the Applicant under this Agreement or any other Project Document shall remain outstanding, the Applicant shall be required to obtain the prior approval of the Authority to transfer or assign any such rights and interests. The Applicant agrees to submit any such request for approval to transfer or assign its rights and interests in and under this Agreement or any other Project Document to the Authority not less than seven (7) days prior to the estimated date of the consummation of such transfer or assignment. The Authority's approval shall not be unreasonably withheld or delayed, nor

shall it be made contingent upon or made in any way to require, directly or indirectly, the payment of any fee or charge by the Applicant or any transferee or assignee. In its consideration of a proposed transferee or assignee, the Authority shall have the right to require (a) information regarding such transferee or assignee which would be required to be disclosed in a statement required under M.G.L. chapter 7, Section 40J or under Article 31A of the Boston Zoning Code, as either may hereafter be amended, and (b) a description of other development projects in which such proposed transferee or assignee has participated, together with a description of its role in each such development, but the Authority shall not have the right to review copies of any document evidencing the transaction(s) between the Applicant and such transferee or assignee other than the notice and assumption agreement described in the immediately following paragraph.

For so long as any obligations of the Applicant under this Agreement or any other Project Document shall remain outstanding, the Applicant shall, within five (5) business days after the consummation thereof, provide to the Authority written notice of any sale or transfer of (i) the right to construct the Project, if prior to the completion thereof, or (ii) the Project, if the same is then completed; which notice shall consist of (a) the name and address of the successor to the Applicant hereunder; and (b) a copy of the instrument pursuant to which the Applicant has assigned such rights to

such successor, and such successor assumed the obligations of Applicant hereunder.

Notwithstanding anything to the contrary contained herein, the Applicant and its partners shall have no obligation to obtain the Authority's written approval of any Permitted Transfer. A Permitted Transfer shall include:

- (i) an involuntary transfer caused by the death or incapacity of any partner of the Applicant, or any partner, joint venturer, officer or shareholder of any such partner;
- (ii) a transfer pursuant to the provisions of any mortgage and/or security agreement, deed of trust or other similar instrument securing the payment of any loan obtained by the Applicant to finance the acquisition of any interest in the Property or the Project, or the construction, repair or reconstruction of any of the improvements required to be constructed as part of the Project pursuant to the Development Plan and/or any other Project Document, or to refinance any outstanding loan therefor obtained by the Applicant for any such purpose;
- (iii) a transfer of all or any portion of the stock ownership of any partner of the Applicant to (A) any entity which solely owns and controls, or is solely owned and controlled by, any such partner of the Applicant, or to (B) any shareholder (including, without limitation, immediate family members of such shareholder) in any such partner;
- (iv) a transfer for purposes of any reallocation among the partners of their interests in the Applicant or a transfer of the entire interest of one partner to another, so long as the aggregate interest of the managing general partner in the Applicant is not reduced below _____ percent (___%) thereby;
- (v) a transfer to any other person or entity, provided that, subsequent to such transfer, the terms of the limited partnership agreement of the Applicant provide that decisions regarding the development, financing, completion, modification, reconstruction, leasing, and any and all other

major decisions concerning the development of the Project remain within the control of the original managing general partner of the Applicant; and

- (vi) a transfer of any limited partnership interest in the Applicant.

In the event of a Permitted Transfer, the Applicant shall, within a reasonable time after such transfer, deliver to the Authority notice of such transfer or change, which notice shall include a revised Disclosure of Beneficial Interest in accordance with the requirements of M.G.L. Chapter 7, Section 40J.

24. BUILDING PERMIT:

Notwithstanding anything to the contrary contained herein, it is agreed and understood that all references in this Agreement to the "initial building permit for the Project" shall be deemed to refer to the first building permit issued in connection with construction of the office building described in the Plan (including, by way of example but not of limitation, any excavation, foundation or other subsurface work undertaken in connection therewith), and shall not refer to any building or other permits or approvals issued in connection with the demolition of any structures (or portions thereof) now existing on the Site (as defined in the Plan), or the conducting of borings, soils investigations or other similar activities, or any work undertaken in connection with the renovation of the Meyer's parking facility.

25. SEVERABILITY. The terms and provisions set forth herein shall be construed as separate and independent

obligations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement, and the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as an instrument under seal by their respective officers thereunto duly authorized as of the day and year first above set forth.

Approved as to Form:

BOSTON REDEVELOPMENT AUTHORITY

Chief General Counsel
Boston Redevelopment
Authority

By: _____
Stephen Coyle, Director
Hereunto Duly Authorized

FRANK-KING ASSOCIATES
LIMITED PARTNERSHIP

By: _____
Name: _____
Title: _____

- EXHIBIT A - Legal Description of Development Parcel
- EXHIBIT B - Legal Description of BRA Parcel
- EXHIBIT C - Development Plan and Development
Impact Project Plan
- EXHIBIT D - Certified Copy of BRA Vote
- EXHIBIT E - Schematic and Revised Project Plans
- EXHIBIT F - List of Project Documents

A certain parcel of land on Washington Street in the City of Boston, shown as Parcel A-6 on a two-sheet plan entitled "Boston Redevelopment Authority Central Business District--Urban Renewal Area Project No. Mass. R-82 Boston - Suffolk County - Massachusetts Delivery Parcel Plan Parcel A-6," dated August 15, 1967, by Chas. T. Main, Inc., which plan is attached as Exhibit B to a certain Land Disposition Agreement between the Boston Redevelopment Authority and Raymond's Redevelopment Associates, dated March 20, 1967, said Plan hereinafter being referred to as "Plan 1," and bounded and described as follows:

NORTHWESTERLY by Washington Street by two (2) lines measuring, respectively, one hundred twenty-four and 95/100 (124.95) feet and twenty-five and 33/100 (25.33) feet;

NORTHEASTERLY by a line in a party wall one hundred thirty-three and 80/100 (133.80) feet;

NORTHWESTERLY by a line in a party wall three and 77/100 (3.77) feet;

NORTHEASTERLY by a line in part in a party wall seventy-four and 00/100 (74.00) feet;

NORTHWESTERLY fourteen and 23/100 (14.23) feet;

NORTHEASTERLY by a line in part in a party wall sixty-three and 97/100 (63.97) feet;

EASTERLY by a line in a party wall ten and 27/100 (10.27) feet;

NORTHERLY twenty-five and 28/100 (25.28) feet;

EASTERLY by other land of the Grantor one hundred twenty-one and 96/100 (121.96) feet;

SOUTHWESTERLY by a private way shown on said Plan as "New Hawley Place" and by Hawley Street, one hundred seventy-one and 80/100 (171.80) feet;

SOUTHEASTERLY by Hawley Street one hundred nineteen and 51/100 (119.51) feet;

SOUTHERLY by a curved line near the intersection of Hawley Street and Franklin Street thirteen and 46/100 (13.46) feet; and

SOUTHWESTERLY by other land of the Grantor, shown on said Plan as "New Franklin Street," two hundred sixteen and 60/100 (216.60) feet.

All as shown on said Plan.

Containing 57,937 square feet of land according to said Plan.

Together with the fee to the centerline of New Hawley Place, as said New Hawley Place is more particularly shown on a plan entitled "Boston Redevelopment Authority Central Business District Urban Renewal Area Project No. Mass R-82 Boston, Suffolk County, Massachusetts Reconveyance Plan Hawley Place", dated August 15, 1967, by Chas. T. Main, Inc., recorded with Suffolk Registry of Deeds, and certain appurtenant rights as set forth in that certain Deed recorded in the Suffolk County Registry of Deeds in Book 8149, Page 271.

EXHIBIT B

BRA Parcel
(Legal Description)

For Development Plan and DIP Plan, see Tab No. 5

EXHIBIT D

(Certified Copy of BRA Vote)
(To be supplied by BRA)

33 ARCH
DESIGN SUBMISSION

Site Plan

Grade Level Plan

Typical Garage Floor Plan

Typical Office Level Plan

Franklin St. Elevation

Arch St. Elevation

Washington St. Elevation

Milk St. Elevation

Building Section

School St. Perspective

Washington St. Perspective

1" = 40' Model

EXHIBIT F

1. Development Plan and Development Impact Project Plan
2. Cultural Benefits Agreement
3. Development Impact Project Agreement (Including Provisions for the Housing Linkage Payment and Jobs Contribution Grant)
4. Cooperation Agreement
5. Land Disposition Agreement
6. Fact Sheet
7. Article 31Q Disclosure Statement
8. Section 40J Disclosure Statement
9. Memorandum to BRA Board and BRA Director regarding the Project
10. Resolutions of BRA Board with respect to the Project
11. Agreement Regarding Public Use of Hawley Street
12. Neighborhood Business Opportunities Plan
13. Transportation Access Plan Agreement
14. Boston Residents Construction Employment Plan
15. Memorandum of Understanding and First Source Agreement with the Mayor's Office of Jobs and Community Services
16. Child Care Contribution Agreement

THIRTY-THREE ARCH STREET
CULTURAL BENEFITS AGREEMENT

This Cultural Benefits Agreement (the "Agreement") is made as of the 13th day of September, 1990 by and between FRANK-KING ASSOCIATES LIMITED PARTNERSHIP, a Massachusetts limited partnership having an address c/o Kingston Investors Corporation, 430 Park Avenue, New York, New York 10022 (together with its successors and assigns, the "Developer"), and THE BOSTON REDEVELOPMENT AUTHORITY, a body politic and corporate, organized under Massachusetts General Laws, Chapter 121B, with offices at One City Hall Plaza, Boston, Massachusetts 02201 (hereinafter, the "Authority"). The general partners of the Developer are Kingston Washington Associates Limited Partnership, a New York limited partnership, and Bowo Associates Limited Partnership, a Massachusetts limited partnership. Its limited partner is Nynex Properties Company, Inc., a Delaware corporation.

WHEREAS, in connection with its construction of the office development at 33 Arch Street in Boston's Midtown Cultural District (the "Project"), the Developer desires to provide for a process by which the Developer can make contributions to facilitate and support the development and maintenance of cultural institutions and programs within the City's Midtown Cultural District; and

WHEREAS, the Authority desires to implement and support programs for the encouragement and maintenance of cultural

institutions and programs within the Midtown Cultural District which are consistent with the Midtown Cultural District Plan adopted by the Authority on January 12, 1989; and

WHEREAS, the Authority and the Developer have identified certain institutions and programs which are appropriate recipients of the Developer's contributions;

NOW, THEREFORE, in consideration of the premises and the obligations of each of the parties herein contained to be performed, the parties hereto agree as follows:

A. CONTRIBUTIONS TO CULTURAL BENEFITS PROGRAMS. In connection with the Developer's construction of the Project, the Developer shall make a contribution totalling One Million and No/100 Dollars (\$1,000,000) for the development and maintenance of cultural facilities and programs within the Midtown Cultural District (the "Developer's Contribution"). The Developer's Contribution will be comprised of six components, as more specifically described below.

1. Contribution to Chinatown Community Center.

Promptly upon issuance of the initial building permit for the Project (as hereinafter defined), the Developer will deliver Fifty Thousand and No/100 Dollars (\$50,000) of the Developer's Contribution to the Authority on behalf of the Chinatown Community Center (the "Chinatown Contribution").

2. Boston Five Cents Savings Bank Park

Contribution. Promptly upon issuance of the initial building permit for the Project, the Developer will deliver

Fifty Thousand and No/100 Dollars (\$50,000) of the Developer's Contribution (the "Park Contribution") to the Authority or its designee to fund visual improvements to the Boston Five Cents Savings Bank Park (the "BFC Park").

3. Cultural Facility Contribution. Promptly upon issuance of the initial building permit for the Project, the Developer will deliver Six Hundred Fifty Thousand and No/100 Dollars (\$650,000) of the Developer's Contribution (the "Cultural Facilities Contribution") to the Authority or its designee. The Cultural Facilities Contribution will be used to fund capital repairs to and renovations of the YMCU Theatre. Notwithstanding the foregoing, in the event that the Authority does not enter into a Cultural Facilities Agreement with the governing body of the YMCU Theatre within six (6) months after its receipt of the Cultural Facilities Contribution, for whatever reason, the Authority shall have the right to expend or use the Cultural Facilities Contribution to establish or support new and existing cultural programs and facilities located in and serving the Midtown Cultural District identified by the Authority.

4. Contribution to Old South Association in Boston. Promptly upon issuance of the initial building permit for the Project, the Developer will deliver One Hundred Thousand and No/100 Dollars (\$100,000) of the Developer's Contribution (the "Old South Contribution") to the Old

South Association in Boston (the "Association"). The Old South Contribution may be allocated by the Old South Association in Boston for capital repairs and renovations necessary or appropriate to enhance the status of the Old South Meeting House as a National Historic Landmark, or for other building improvements and/or maintenance, and in connection with exhibitions in the Old South Meeting House museum and lecture and concert series, school programs and other cultural events presented at the Old South Meeting House or otherwise sponsored by the Old South Meeting House or the Association.

5. Contribution to Wang Restoration Campaign.

Promptly upon issuance of the initial building permit for the Project, the Developer will deliver One Hundred Thousand and No/100 Dollars (\$100,000) of the Developer's Contribution (the "Wang Contribution") to the Wang Restoration Campaign in connection with the restoration of the Wang Center for the Performing Arts at 286 Tremont Street in the Midtown Cultural District (the "Wang Center"). The Wang Contribution will be used for capital repairs and renovations of the Wang Center as part of such restoration, in accordance with the provisions of the Midtown Cultural District Plan.

6. Establishment of Contingency Benefit Fund.

Promptly upon issuance of the initial building permit for the Project, the Developer will deliver Fifty Thousand and

No/100 Dollars (\$50,000) of the Developer's Contribution (the "Fund Contribution") to the Authority for the establishment of a contingency benefit fund (the "Contingency Benefit Fund"). The Contingency Benefit Fund will be used to establish and support new and existing cultural programs and facilities located in and serving the Midtown Cultural District identified by the Authority.

B. CANCELLATION OF CONTRIBUTION OBLIGATIONS. In the event that (a) a building permit is not granted for the Project, as a result of the Developer's abandonment of the Project or for any other reason, or (b) the Developer elects to abandon the Project after a building permit has been obtained but prior to the commencement of significant construction thereunder, the Developer shall have no responsibility for the payment of any portion of the Developer's Contribution under the terms of this Agreement or the performance of any obligations to be performed by the Developer hereunder. In the event that a building permit issued for the Project is revoked, or lapses and is not subsequently renewed, after commencement of significant construction under the initial building permit, as a result of the Developer's abandonment of the Project or for any other reason, the Developer shall have no responsibility for the payment of any portion of the Developer's Contribution which under the terms of this Agreement is not yet due and payable as of the date of such revocation or lapse, nor any further responsibility for the

performance of any obligations to be performed by the Developer hereunder. In the event the Project is abandoned, the Developer shall, promptly after abandoning the Project, file with the Authority an affidavit stating that the Project has been abandoned and the date of such abandonment. This Agreement is expressly made subject to the provisions of Section 18 of the Cooperation Agreement between the Authority and the Developer, which provisions are incorporated by reference herein.

C. NOTICES

Any notice required under this Agreement shall be in writing, signed by a duly-authorized officer or representative of the party giving such notice, and shall be delivered by hand or by recognized overnight delivery service, or mailed postage pre-paid, by certified or registered mail, return receipt requested, to the appropriate party or parties at the address(es) set forth below (or such other address[es] as a party hereto may have specified to the others by notice as herein provided):

Developer: Frank-King Associates Limited
Partnership
c/o Kingston Investors Corporation
430 Park Avenue
New York, New York 10022

Attn: Mr. E. Peter Krulewitch

with a copy to: Old State Management Corporation
Exchange Place
37th Floor
53 State Street
Boston, Massachusetts 02109

Attn: Mr. Edward Zielinski

and with a copy to: Goodwin, Procter & Hoar
Exchange Place
53 State Street
Boston, Massachusetts 02109
Attn: Mr. Paul F. McDonough, Jr., Esq.

Authority: Boston Redevelopment Authority
Director's Office
One City Hall Plaza
Boston, Massachusetts 02201

with a copy to: Boston Redevelopment Authority
Chief General Counsel
One City Hall Plaza
Boston, Massachusetts 02201

Chinatown
Community Center: c/o Boston Redevelopment Authority
Director's Office
One City Hall Plaza
Boston, Massachusetts 02201

YMCU Theater: Boston Young Mens' Christian Union
48 Boylston Street
Boston, Massachusetts 02116
Attn: Lawrence J. Hagerty, President

Old South Association
in Boston: Old South Association in Boston
310 Washington Street
Boston, Massachusetts 02108
Attn: Cindy Stone, President

Wang Restoration
Campaign Wang Center for the Performing Arts
270 Tremont Street
Boston, Massachusetts 02116
Attn: Josiah Spaulding, Executive
Director

A notice shall be deemed to have been given on the earlier of
(a) the date received, or (b) the date of delivery, refusal or
non-delivery indicated on the return receipt.

D. TRANSFER AND ASSIGNMENT. It is agreed and understood
that the Developer shall have the right, subject to the terms
of this section, at any time to transfer or assign its rights
and interests in and under this Agreement and any other

agreement or document now or hereafter entered into by the Developer and the Authority in connection with the Project, delivered to the Authority by or on behalf of the Developer, or issued by or on behalf of the Authority in connection with the Project (collectively, the "Project Documents") and in all or any portion of the Project and/or the Project Site.

Notwithstanding the foregoing, for so long as any obligations of the Developer under this Agreement or any other Project Document shall remain outstanding, the Developer shall be required to obtain the prior approval of the Authority to transfer or assign any such rights and interests. The Developer agrees to submit any such request for approval to transfer or assign its rights and interests under this Agreement or any other Project Document not less than seven (7) days prior to the estimated date of the consummation of such transfer or assignment. The Authority's approval shall not be unreasonably withheld or delayed, nor shall it be made contingent upon or made in any way to require, directly or indirectly, the payment of any fee or charge by the Developer or any transferee or assignee. In its consideration of a proposed transferee or assignee, the Authority shall have the right to require (a) information regarding such transferee or assignee which would be required to be disclosed in a statement required under M.G.L. chapter 7, Section 40J or under Article 31A of the Boston Zoning Code, as either may be hereafter amended, and (b) a description of other development projects in

which such proposed transferee or assignee has participated, together with a description of its role in each such development, but the Authority shall not have the right to review copies of any document evidencing the transaction(s) between the Developer and such transferee or assignee other than the notice and assumption agreement described in the immediately following paragraph.

For so long as any obligations of the Developer under this Agreement or any other Project Document shall remain outstanding, the Developer shall, within five (5) business days after the consummation thereof, provide to the Authority written notice of any sale or transfer of (i) the right to construct the Project, if prior to the completion thereof, or (ii) the Project, if the same is then completed; which notice shall consist of (a) the name and address of the successor to the Developer hereunder; and (b) a copy of the instrument pursuant to which the Developer has assigned such rights to such successor, and such successor has assumed the obligations of Developer hereunder.

Notwithstanding anything to the contrary contained herein, the Developer and its partners shall have no obligation to obtain the Authority's written approval of any Permitted Transfer. A Permitted Transfer shall include:

- (i) an involuntary transfer caused by the death or incapacity of any partner of the Developer, or any partner, joint venturer, officer or shareholder of any such partner;

- (ii) a transfer pursuant to the provisions of any mortgage and/or security agreement, deed of trust or other similar instrument securing the payment of any loan obtained by the Developer to finance the acquisition of any interest in the Property or the Project, or the construction, repair or reconstruction of any of the improvements required to be constructed as part of the Project pursuant to the Development Plan and/or any other Project Document, or to refinance any outstanding loan therefor obtained by the Developer for any such purpose;
- (iii) a transfer of all or any portion of the stock ownership of any partner of the Developer to (A) any entity which solely owns and controls, or is solely owned and controlled by, any such partner of the Developer, or to (B) any shareholder (including, without limitation, immediate family members of such shareholder) in any such partner;
- (iv) a transfer for purposes of any reallocation among the partners of their interests in the Developer or a transfer of the entire interest of one partner to another, so long as the aggregate interest of the managing general partner in the Developer is not reduced below _____ percent (___%) thereby;
- (v) a transfer to any other person or entity, provided that, subsequent to such transfer, the terms of the limited partnership agreement of the Developer provide that decisions regarding the development, financing, completion, modification, reconstruction, leasing, and any and all other major decisions concerning the development of the Project remain within the control of the original managing general partner of the Developer; and
- (vi) a transfer of any limited partnership interest in the Developer.

In the event of a Permitted Transfer, the Developer shall, within a reasonable time after such transfer, deliver to the Authority notice of such transfer or change, which notice shall include a revised Disclosure of Beneficial Interest in accordance with the requirements of M.G.L. Chapter 7, Section 40J.

E. ENFORCEABILITY. This Agreement sets forth the entire agreement between the parties hereto and shall be governed by the laws of the Commonwealth of Massachusetts. This Agreement is binding upon and enforceable against, and shall inure to the benefit of, the parties and their successors, assigns and legal representatives (including, without limitation, any successor owner or owners of the improvements and/or the parcel on which the Project is located [the "Project Site"])). This Agreement is intended to be for the benefit of the parties described in the immediately preceding sentence only, and no other person or entity may seek enforcement of the terms hereof, regardless of whether such person or entity would enjoy a financial or other benefit from such enforcement.

If the satisfaction of any claim or the collection of a judgment or other judicial process against the Developer or its successors and assigns in connection with the Project requires the payment of money, the Authority agrees to look solely to the interest of the Developer or its successors and assigns in and to the Project and/or the Project Site, as the case may be, for such satisfaction or collection.

No holder of a mortgage, deed of trust or other similar instrument on the Project, the Project Site or any portion thereof shall be liable to perform, or liable in damages for any failure to perform, any of the obligations of the Developer. In the event that such holder shall have acquired title to the Project and/or Project Site, as the case may be,

by foreclosure or deed or assignment in lieu of foreclosure, the liability of such holder shall be limited to the amount of its interest in and to the Project and/or the Project Site, as the case may be.

Neither the Developer or any successor or assign of the Developer, nor any trustee, beneficiary, partner, stockholder, manager, officer, director, agent or employee of the Developer or any such successor or assign (including, without limitation, mortgagees) shall be personally or individually liable under this Agreement, nor shall it or they be answerable or liable in any equitable proceeding or order beyond the extent of its or their then interest in the Project.

F. BUILDING PERMIT:

Notwithstanding anything to the contrary contained herein, it is agreed and understood that all references in this Agreement to the "initial building permit for the Project" shall be deemed to refer to the first building permit issued in connection with construction of the office building described in the Plan (including, by way of example but not of limitation, any excavation, foundation or other subsurface work undertaken in connection therewith), and shall not refer to any building or other permits or approvals issued in connection with the demolition of any structures (or portions thereof) now existing on the Site (as defined in the Plan), or the conducting of borings, soils investigations or other similar

activities, or any work undertaken in connection with the renovation of the Meyer's parking facility.

G. AMENDMENT. This Agreement may only be amended by an agreement in writing executed by the party to be charged.

H. SEVERABILITY. The terms and provisions set forth herein shall be construed as separate and independent obligations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement, and the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal in their behalf by their respective officers thereunto duly authorized as of this 13th day of September , 1990.

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: _____

FRANK-KING ASSOCIATES LIMITED
PARTNERSHIP

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Chief General Counsel
Boston Redevelopment Authority

BENEFICIAL INTERESTS DISCLOSURE STATEMENT
(As required under Massachusetts General Laws
Chapter 7, Section 40J)

I. PROPERTY

33 Arch Street, Boston, Massachusetts

II. PARTIES

A. GRANTOR/LESSOR: Boston Redevelopment Authority

B. GRANTEE/LESSEE: Frank-King Associates, L.P.

III. SUMMARY OF BENEFICIAL INTERESTS

The undersigned hereby states, under the penalties of perjury, that the true names and addresses of all persons who have or will have a direct or indirect beneficial interest of one percent (1%) or more in the above-referenced property (including the amount of their respective beneficial interests accurate to within one-half percent [.5%]) are listed below in compliance with the provisions of Section 40J of Chapter 7 of the Massachusetts General Laws (a copy of which is attached).

* * * * *

	INTEREST IN FKA
<u>FRANK-KING ASSOCIATES LIMITED PARTNERSHIP ("FKA")</u>	
<u>General Partner:</u> Bowo Associates Limited Partnership c/o Odyssey Partners, L.P. 437 Madison Avenue New York, New York 10022 Martin Rabinowitz (212) 715-8600	33.33%
<u>General Partner:</u> Kingston Washington Associates Limited Partnership c/o Kingston Investors Corporation 430 Park Avenue, Ste. 600 New York, New York 10022 E. Peter Krulewitch (212) 308-6990	33.33%
<u>Limited Partner:</u> Nynex Properties Company, Inc. 21 Penn Plaza New York, New York 10022 Barry S. Abrams (212) 643-4276	33.33% 100.00%

<u>A. BOWO ASSOCIATES LIMITED PARTNERSHIP</u> <u>("BALP")</u>	<u>Interest</u> <u>in BALP</u>	<u>Interest</u> <u>in FKA</u>
<u>General Partner of BALP</u> Bowo, Inc. c/o Odyssey Partners, L.P. 437 Madison Avenue New York, New York 10022 Martin Rabinowitz (212) 715-8600	.50%	.17%
<u>Limited Partners of BALP</u> *Odyssey Partners, L.P. 437 Madison Avenue New York, New York 10022 Martin Rabinowitz (212) 715-8600	49.50%	16.49%
Bowo-Liberty Associates Limited Partnership c/o Liberty Properties One Liberty Square Suite 400 Boston, Massachusetts 02109 (617) 423-7177	50.00% 100.00%	16.67% 33.33%

- * Odyssey holds an additional .166% beneficial interest in FKA as sole shareholder of Bowo, Inc., for an aggregate beneficial interest of 16.65%.

1. Bowo, Inc. ("Bowo")

Sole Shareholder

Odyssey Partners, L.P.
437 Madison Avenue
New York, New York 10022
Martin Rabinowitz
(212) 715-8600

100.00%	33.33%
100.00%	33.33%

2. Odyssey Partners, L.P.
("Odyssey")

Interest
in FKA

Leon Levy
c/o Odyssey Partners, L.P.
437 Madison Avenue
New York, New York 10022
(212) 715-8600

**3.05%

Jack Nash
c/o Odyssey Partners, L.P.
437 Madison Avenue
New York, New York 10022
(212) 715-8600

**2.23%

Lester Pollock
One Rockefeller Plaza
Suite 1025
New York, New York 10022
(212) ____-____

**1.01%

** The interest specified for the above partners of Odyssey includes each partner's beneficial interest in Bowo, Inc.

NOTE: The undersigned certifies that each of the other partners in Odyssey holds less than a one percent (1%) interest in FKA.

3. Bowo-Liberty Associates Interest Interest
Limited Partnership ("BLLP") in BLLP in FKA

General Partners

*Harold Theran	1.00%	.16%
c/o Old State Management Corp.		
Exchange Place, 37th Floor		
53 State Street		
Boston, MA 02109-2881		
(617) 742-9888		

**Austin Cable	1.00%	.16%
c/o Liberty Properties		
One Liberty Square		
Suite 400		
Boston, MA 02109		
(617) 423-7177		

Limited Partners

*Harold Theran	49.00%	8.17%
c/o Old State Management Corp.		
Exchange Place, 37th Floor		
53 State Street		
Boston, MA 02109-2881		
(617) 742-9888		

Caspa-Bowo Limited Partnership	49.00%	8.17%
c/o Liberty Properties	100.00%	16.67%
One Liberty Square		
Suite 400		
Boston, Massachusetts 02109		
(617) 423-7177		

* Harold Theran has a beneficial interest in FKA of .16% as a general partner of BLLP and a beneficial interest in FKA of 8.17% as a limited partner of BLLP, for an aggregate beneficial interest in FKA of 8.33%.

** Austin Cable has a beneficial interest in FKA of .16% as a general partner of BLLP and a beneficial interest in FKA of .82% as a general partner of CBLP, for an aggregate beneficial interest in FKA of .98%.

a. Caspa-Bowo Limited Partnership ("CBLP")	Interest in CBLP	Interest in FKA
<u>General Partner</u>		
*Austin Cable c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	10.00%	.82%
<u>Limited Partners</u>		
Stuart Cable c/o Goodwin, Procter & Hoar Exchange Place 53 State Street Boston, MA 02109-2881 (617) 570-1322	30.00%	2.46%
Andrew Cable c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	30.00%	2.46%
(Trust for Patricia Cable) c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	30.00% 100.00%	2.46% 8.20%

c. HYNEX PROPERTIES COMPANY, INC. (212) 543-4276	100.00%	10.00%
Sole Shareholder Hynex Corporation c/o Hynex Properties Co., Inc. 24 Penn Plaza, 17th Floor New York, New York 10001 Harry S. Abrams (212) 543-4276	100.00% 100.00%	10.00% 10.00%

NOTE: The undersigned certifies that Hynex Corporation's stock is listed for sale to the public with the Securities and Exchange Commission and that each of the shareholders of Hynex Corporation owns less than a 1% interest in Hynex Corporation.

B. <u>KINGSTON WASHINGTON ASSOCIATES LIMITED PARTNERSHIP ("KWA")</u>	<u>Interest KWA</u>	<u>Interest FKA</u>
<u>General Partner of KWA</u> E. Peter Krulewitch c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	1.00%	.33%
<u>Limited Partners of KWA</u> E. Peter Krulewitch c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	30.67%	10.22%
Stanley S. Rothman c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	31.67%	10.55%
William M. Hitchcock Bedford Street Corporation 520 Broadway, Ste. 250 Santa Monica, California 90401 (213) 394-4523	31.67%	10.55%
Ezra Berger c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	<u>5.00%</u> 100.00%	<u>1.67%</u> 33.33%

C. <u>NYNEX PROPERTIES COMPANY, INC. ("NPCI")</u>	<u>Interest in NPCI</u>	<u>Interest in FKA</u>
<u>Sole Shareholder</u> Nynex Corporation c/o Nynex Properties Co., Inc. 21 Penn Plaza, 17th Floor New York, New York 10001 Barry S. Abrams (212) 643-4276	<u>100.00%</u> 100.00%	<u>33.33%</u> 33.33%

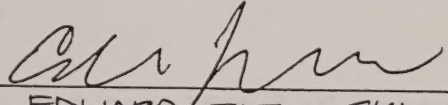
NOTE: The undersigned certifies that Nynex Corporation's stock is listed for sale to the public with the Securities and Exchange Commission and that each of the shareholders in Nynex Corporation holds less than a 10% interest in Nynex Corporation.

IV. CERTIFICATION REGARDING GOVERNMENTAL OFFICIALS/EMPLOYEES

The undersigned further acknowledges and states that none of the above-listed individuals is an official elected to public office in the Commonwealth of Massachusetts, nor is any such individual an employee of the State Department of Capital Planning and Operations.

SIGNED under penalties of perjury.

FRANK-KING ASSOCIATES LIMITED
PARTNERSHIP

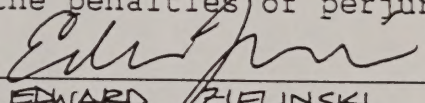
By: 
Name: EDWARD ZIELINSKI,
Title: VICE PRESIDENT

Date: July 24, 19 99

Note to Disclosure Statements
(Disclosure of Priority Provisions)

NOTE: Under the terms of the Applicant's partnership agreement, the distribution of proceeds on the sale of the Project is subject to certain priority provisions. Depending on the actual sales price of the Property, proceeds may be allocated to the Applicant's partners at rates different from those set forth in this Disclosure Statement. However, no party who has not been named in this Disclosure Statement will, regardless of the Project's selling price, hold a direct or indirect beneficial interest in the Project of one percent (1%) or more.

SIGNED under the penalties of perjury.

Signature: 
Name Printed: EDWARD ZIELINSKI
Date: JULY 24, 1990

XP-0460/o

THIRTY-THREE ARCH

Disclosure Statement Concerning Beneficial Interest(s)
Required by Article 31A of the Boston Zoning Code

- (1) Name of Project: Thirty-Three Arch
- (2) Location: 33 Arch Street
Boston, Massachusetts 02110
- (3) Applicant: Frank-King Associates
Limited Partnership
430 Park Avenue
New York, New York 10022
E. Peter Krulewitch
(212) 308-6990
- Development
Advisor: Old State Management Corporation
Exchange Place
53 State Street
Boston, Massachusetts 02109-2881
Edward Zielinski, Vice President
(617) 742-9888

- (4) I hereby state, under the penalties of perjury, that the true names and addresses of all Persons who have a Beneficial Interest (including the amount of their Beneficial Interest accurate to within one-tenth of one percent [.10%] if such interest exceeds one percent [1.00%]) in the above-listed property are listed below in compliance with the provisions of Article 31A of the Boston Zoning Code.

NAME AND RESIDENCE OF EACH PERSON
WITH SAID BENEFICIAL INTEREST:

	INTEREST IN FKA
<u>FRANK-KING ASSOCIATES LIMITED PARTNERSHIP ("FKA")</u>	
<u>General Partner:</u> Bowo Associates Limited Partnership c/o Odyssey Partners, L.P. 437 Madison Avenue New York, New York 10022 Martin Rabinowitz (212) 715-8600	33.33%
<u>General Partner:</u> Kingston Washington Associates Limited Partnership c/o Kingston Investors Corporation 430 Park Avenue, Ste. 600 New York, New York 10022 E. Peter Krulewitch (212) 308-6990	33.33%
<u>Limited Partner:</u> Nynex Properties Company, Inc. 21 Penn Plaza New York, New York 10022 Barry S. Abrams (212) 643-4276	33.33% 100.00%

I. BOWO ASSOCIATES LIMITED PARTNERSHIP ("BALP")	Interest in BALP	Interest in FKA
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General Partner of BALP

Bowo, Inc.

.50%

.17%

c/o Odyssey Partners, L.P.

437 Madison Avenue

New York, New York 10022

Martin Rabinowitz

(212) 715-8600

Limited Partners of BALP

*Odyssey Partners, L.P.

49.50%

16.49%

437 Madison Avenue

New York, New York 10022

Martin Rabinowitz

(212) 715-8600

Bowo-Liberty Associates

Limited Partnership

50.00%

16.67%

c/o Liberty Properties

100.00%

33.33%

One Liberty Square

Suite 400

Boston, Massachusetts 02109

(617) 423-7177

- * Odyssey holds an additional .166% beneficial interest in FKA as sole shareholder of Bowo, Inc., for an aggregate beneficial interest of 16.65%.

** The interest specified for the above partners of Odyssey includes each partner's beneficial interest in Bowo, Inc.

NOTE: The undersigned certifies that each of the other partners in Odyssey holds less than a one percent (1%) interest in FKA.

A. Bowo, Inc. ("Bowo")

Sole Shareholder

Odyssey Partners, L.P.

100.00%

33.33%

437 Madison Avenue

100.00%

33.33%

New York, New York 10022

Martin Rabinowitz

(212) 715-8600

B. Odyssey Partners, L.P.
("Odyssey")

Interest
in FKA

Leon Levy

**3.05%

c/o Odyssey Partners, L.P.

437 Madison Avenue

New York, New York 10022

(212) 715-8600

Jack Nash

**2.23%

c/o Odyssey Partners, L.P.

437 Madison Avenue

New York, New York 10022

(212) 715-8600

Lester Pollock

**1.01%

One Rockefeller Plaza

Suite 1025

New York, New York 10022

(212) ____-____

** The interest specified for the above partners of Odyssey includes each partner's beneficial interest in Bowo, Inc.

NOTE: The undersigned certifies that each of the other partners in Odyssey holds less than a one percent (1%) interest in FKA.

C. Bowo-Liberty Associates Interest Interest
Limited Partnership ("BLLP") in BLLP in FKA

General Partners

*Harold Theran	1.00%	.16%
c/o Old State Management Corp.		
Exchange Place, 37th Floor		
53 State Street		
Boston, MA 02109-2881		
(617) 742-9888		

**Austin Cable	1.00%	.16%
c/o Liberty Properties		
One Liberty Square		
Suite 400		
Boston, MA 02109		
(617) 423-7177		

Limited Partners

*Harold Theran	49.00%	8.17%
c/o Old State Management Corp.		
Exchange Place, 37th Floor		
53 State Street		
Boston, MA 02109-2881		
(617) 742-9888		

Caspa-Bowo Limited Partnership	49.00%	8.17%
c/o Liberty Properties	100.00%	16.67%
One Liberty Square		
Suite 400		
Boston, Massachusetts 02109		
(617) 423-7177		

* Harold Theran has a beneficial interest in FKA of .16% as a general partner of BLLP and a beneficial interest in FKA of 8.17% as a limited partner of BLLP, for an aggregate beneficial interest in FKA of 8.33%.

** Austin Cable has a beneficial interest in FKA of .16% as a general partner of BLLP and a beneficial interest in FKA of .82% as a general partner of CBLP, for an aggregate beneficial interest in FKA of .98%.

1. Caspa-Bowo Limited Partnership ("CBLP")	Interest in CBLP	Interest in FKA
<u>General Partner</u>		
**Austin Cable c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	10.00%	.82%
<u>Limited Partners</u>		
Stuart Cable c/o Goodwin, Procter & Hoar Exchange Place 53 State Street Boston, MA 02109-2881 (617) 570-1322	30.00%	2.46%
Andrew Cable c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	30.00%	2.46%
(Trust for Patricia Cable) c/o Liberty Properties One Liberty Square Suite 400 Boston, MA 02109 (617) 423-7177	30.00% 100.00%	2.46% 8.20%

III. HYNEX PROPERTIES COMPANY, INC.
(NPCI)

2010 Corporation
Hynex Corporation
c/o Hynex Properties Co., Inc.
21 Penn Plaza, 17th Floor
New York, New York 10019
Larry S. Abrams
(212) 943-4376

NOTE: The undersigned certifies that Hynex Corporation's stock is listed for sale on the New York Stock Exchange and Securities and Exchange Commission and that each of the shareholders in Hynex Corporation is a resident of the State of New York.

II. <u>KINGSTON WASHINGTON ASSOCIATES LIMITED PARTNERSHIP ("KWA")</u>	<u>Interest KWA</u>	<u>Interest FKA</u>
<u>General Partner of KWA</u>		
E. Peter Krulewitch c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	1.00%	.33%
<u>Limited Partners of KWA</u>		
E. Peter Krulewitch c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	30.67%	10.22%
Stanley S. Rothman c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	31.67%	10.55%
William M. Hitchcock Bedford Street Corporation 520 Broadway, Ste. 250 Santa Monica, California 90401 (213) 394-4523	31.67%	10.55%
Ezra Berger c/o Kingston Investors Corp. 430 Park Avenue, Ste. 600 New York, New York 10022 (212) 308-6990	5.00% <u>100.00%</u>	1.67% <u>33.33%</u>
III. <u>NYNEX PROPERTIES COMPANY, INC. ("NPCI")</u>	<u>Interest in NPCI</u>	<u>Interest in FKA</u>
<u>Sole Shareholder</u>		
Nynex Corporation c/o Nynex Properties Co., Inc. 21 Penn Plaza, 17th Floor New York, New York 10001 Barry S. Abrams (212) 643-4276	100.00% <u>100.00%</u>	33.33% <u>33.33%</u>

NOTE: The undersigned certifies that Nynex Corporation's stock is listed for sale to the public with the Securities and Exchange Commission and that each of the shareholders in Nynex Corporation holds less than a 10% interest in Nynex Corporation.

- (5) The undersigned also acknowledges and states that except as stated below, none of the above-listed individuals is an official elected to public office in the Commonwealth of Massachusetts, nor is an employee of the State Department of Capital Planning and Operations.
- (6) I hereby state, under the penalties of perjury, that the names and addresses of all firms and professional corporations employing attorneys, real estate brokers, architects, engineers, planners, or surveyors, and all other agents who have acted on behalf of any of the foregoing with respect to the application for Zoning Relief on the above-listed property are listed below in compliance with the provisions of Article 31A of the Boston Zoning Code.

NAMES AND ADDRESSES OF ALL FIRMS AND PROFESSIONAL CORPORATIONS, AND AGENTS WHO HAVE ACTED ON SAID APPLICATION (continue on separate sheet if necessary):

ARCHITECTS

Shepley Bulfinch Richardson and Abbott/Crang & Boake, Inc.
40 Broad Street
Boston, Massachusetts 02109
Jan Heespelink
(617) 423-1700

LEGAL COUNSEL

Kopelman and Paige, P.C.
101 Arch Street
Boston, Massachusetts 02110
Joel B. Bard, Esq.
(617) 951-0007

Goodwin, Procter & Hoar
Exchange Place
53 State Street
Boston, Massachusetts 02109-2881
Paul F. McDonough, Jr., Esq.
(617) 570-1470

CONSTRUCTION CONSULTANT

Beacon Construction Company
Three Center Plaza
Boston, Massachusetts 02108
David Lash
(617) 742-8800

STRUCTURAL ENGINEER

Caruthers & Wallace Ltd.
250 Merton Street
Toronto, Ontario
M4S1B1 CANADA
John Springfield
1 (416) 489-0052

ENVIRONMENTAL CONSULTANT

H.W. Moore Associates, Inc.
112 Shawmut Avenue
Boston, Massachusetts 02118
Barry S. Porter
(617) 357-8145

GEOTECHNICAL ENGINEER

Haley & Aldrich, Inc.
58 Charles Street
Cambridge, Massachusetts 02141
Edmund Johnson
(617) 494-1606

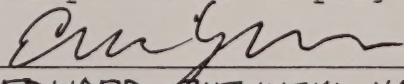
WIND CONSULTANT

Technology Integration and Development Group, Inc.
1 Progress Road
Billerica, Massachusetts 01821
Richard Haden
(508) 667-3779

AIR QUALITY AND NOISE CONSULTANT

Jason M. Cortell and Associates, Inc.
244 Second Avenue
Waltham, Massachusetts 02154
David Ernst
(617) 890-3737

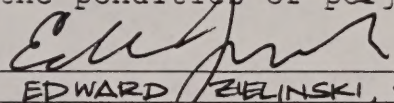
SIGNED under the penalties of perjury.

Signature: 
Name Printed: EDWARD ZIELINSKI, V.P.
Date: JULY 24, 1990

Note to Disclosure Statements
(Disclosure of Priority Provisions)

NOTE: Under the terms of the Applicant's partnership agreement, the distribution of proceeds on the sale of the Project is subject to certain priority provisions. Depending on the actual sales price of the Property, proceeds may be allocated to the Applicant's partners at rates different from those set forth in this Disclosure Statement. However, no party who has not been named in this Disclosure Statement will, regardless of the Project's selling price, hold a direct or indirect beneficial interest in the Project of one percent (1%) or more.

SIGNED under the penalties of perjury.

Signature: 

Name Printed: EDWARD ZIELINSKI, V.P.

Date: JULY 24, 1990

XP-0460/o



OFFICE OF THE ARTS AND HUMANITIES

BOSTON ART COMMISSION

Boston City Hall — Room 803
Boston, Massachusetts 02201
617-725-3245

RAYMOND L. FLYNN
MAYOR

BRUCE P. ROSSLEY
COMMISSIONER

August 24, 1990

Mr. Clarence Jones
Members of the Board
Boston Redevelopment Authority
One City Hall Plaza
Boston, MA 02201

Dear Mr. Jones and Members of the Board:

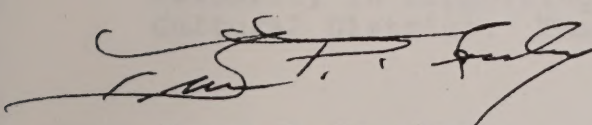
I am writing to express my support for the proposed development at 33 Arch Street in the Midtown Cultural District.

I am particularly pleased at the prospect of the YMCU Theater being renovated as part of the Cultural Benefits package. The package will also make a contribution to the Wang Center Renovation Campaign as well as to the Old South Meeting House and the Boston Five Bank. Taken together the Cultural Benefits Package pushes the Midtown Cultural District Plan further ahead in an era of so many cutbacks in the arts.

The design of 33 Arch Street will be a fine addition to the district, expanding the first downtown office market into Midtown - thus leveraging future mixed-use development into what had primarily been retail and secondary office space.

I look forward to the commencement of construction of 33 Arch Street and urge the Board's approval.

Sincerely,


Bruce P. Rossley
Commissioner



City of Boston
Women's
Commission

Raymond L. Flynn
Mayor

Elaine Taber
Director

September 13, 1990

To the members of the Boston Redevelopment Authority Board:

On behalf of the Boston Women's Commission, I am here today to support the 33 Arch Street Project, and in particular, the provisions for child care. The provisions for child care facilities are in accordance with the Midtown Cultural District Zoning Plan, Article 38 of the Boston Zoning Code.

However, because this project starts on the eleventh floor, and building code and Office for Children licensing regulations restrict child care facilities above the seventh floor, the required child care facility is in the proposed form of a cash contribution. This cash contribution of \$500,000 can be used for the provision of child care facilities, and/or the expansion of existing facilities and services in the midtown area. The Women's Commission fully supports this proposed cash contribution for child care.

One of the most critical areas of need for child care is in the Midtown and Chinatown neighborhoods. The Women's Commission commends the developers of 33 Arch Street for making a commitment to child care to this community.

The availability of high quality, affordable child care is a critical need for Boston's families. The Women's Commission looks forward to continuing to work with the Boston Redevelopment Authority in supporting the development of child care in the Midtown Cultural District. Thank you.

Sincerely,

Elaine Taber
Mayor's Advisor on Women's Issues

華埠 / 南灣社區議會

CHINATOWN/SOUTH COVE NEIGHBORHOOD COUNCIL

SUITE 203
65 HARRISON AVENUE
BOSTON, MASSACHUSETTS 02111
TELEPHONE (617) 426-8858

September 13, 1990

Mr. Clarence J. Jones
Chairman
Boston Redevelopment Authority
Boston City Hall
Boston, MA 02201

Mr. Chairman:

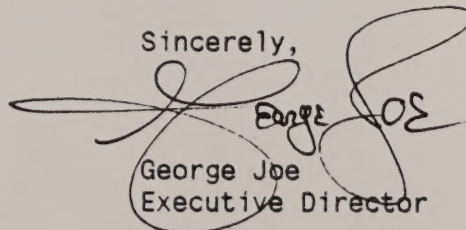
GREETINGS FROM CHINATOWN!!

Boston is a City of history, growth and accomplishments, it is a City that has one of the world's finest urban environments. Today, more Bostonians than ever are able to realize their dreams, our economy is booming, we are working hard to ensure that the economic forces of the new Boston blend harmoniously with the spirit of the historic Boston.

The Chinatown/South Cove Neighborhood Council believes that 40 Franklin Street is one of these project. As its adjacent neighbor, the community of Chinatown will receive needed child care fundings, job creations, and most important, housing linkage. This will indeed be a shot in the arm for the community of Chinatown. Our time is now!

Chinatown.. through the effort of Director Coyle and you the B.R.A. Board have made Chinatown a once again proud and viable community. The best is yet to come for our great city, but most important, the best is yet to come for Chinatown. We urge the board for this approval.

Sincerely,



George Joe
Executive Director

文化區工作小組

Midtown Cultural District Task Force

September 10 ,1990

Mr. Clarence J. Jones
Chairman
Boston Redevelopment Authority Board
9th Floor
Boston City Hall
Boston, MA 02201

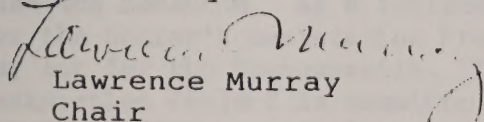
Dear Chairman Jones:

The Midtown Cultural District Task Force met on September 6th with Old State Management Corporation and the developers of 33 Arch Street to consider their revised plans. Based upon their presentation the Citizens Advisory Committee of the Task Force voted their unqualified support.

Though there was some concern about the height, there was consensus that it was acceptable in light of the current economic realities. Overall, the proposed building is consistent with the goals of the Midtown Cultural District Plan.

We urge you to support this development proposal.

Sincerely,


Lawrence Murray
Chair

THE WANG
CENTER
FOR THE PERFORMING ARTS

September 12, 1990

The Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201

Boston Redevelopment Authority Board Members,

The Wang Center for the Performing Arts would like to express its support of the proposed 33 Arch Street Project.

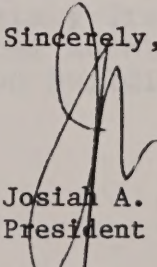
I was personally looking forward to attending this meeting to show our support. However, due to the fact that The Wang Center's Annual Meeting is also scheduled at the same time, I will not be able to attend.

Therefore, I would like to take this opportunity to write in support of the proposed 33 Arch Street Project:

A new office building to be built in the Midtown District will expand the District's economic components as well as creating new uses and momentum. As a recipient of the Cultural's benefit package for the Center's Restoration Project, it is important not only for us, but for the Commonwealth. The Wang Center's \$10 million Restoration Project is committed to restoring the Center to its original grandeur and elegance. This project also continues the dream of the Center's founders and represents an ongoing commitment to maintain the historical integrity of one of Boston's most important landmarks.

The proposed 33 Arch Street Project is extremely exciting and the public benefits will be a welcomed addition for all.

Sincerely,



Josiah A. Spaulding, Jr.
President and General Manager

Building and Construction Trades Council of the Metropolitan District

AFFILIATED TO THE

BUILDING AND CONSTRUCTION TRADES DEPARTMENT

A.F.L.-C.I.O.

TERRITORIAL JURISDICTION

Arlington, Boston, Belmont, Brookline, Burlington, Cambridge, Canton, Chelsea, Dedham, Everett, Malden, Medford, Melrose, Milton, Norwood, Reading, Revere, Somerville, Stoneham, Wakefield, Westwood, Winthrop, Winchester, Woburn, and the Islands of Boston Harbor

TELEPHONE
617 - 282-0080

645 MORRISSEY BOULEVARD
SUITE 2
BOSTON, MA 02122-3520

September 13, 1990

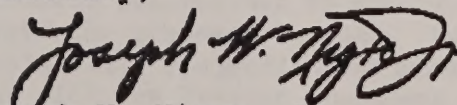
Stephen Coyle
Executive Director
Boston Redevelopment Authority
1 City Hall Mall
Boston, MA 02201

Dear Mr. Coyle,

The Building Trades Council of the Metropolitan District would like to go on record in support of the project at 33 Arch Street, Boston, Massachusetts.

As you and the members of the Board know the Building Trades are suffering at the present time with over 30% unemployment. The many construction jobs generated by this project will be a welcome relief to the many unions in the Boston area. Boston resident job policies which will be in effect on this job is just another example of the many linkage benefits that will inure to the residents of the City of Boston.

Sincerely,



Joseph W. Nigro, Jr.
Secretary-Treasurer/
General Agent
Boston Building Trades Council

JWN/gs



Old South Association in Boston

The Old South Meeting House

September 13, 1990

DIRECTOR

Cynthia Stone

BOARD OF MANAGERS

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William F. Hennessey

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Henry Lee

Pauline Maier

Judith B. McDonough

Hiller B. Zobel

Frederick R.H. Witherby

Counsel

Chairman and Members

Boston Redevelopment Authority Board

Boston City Hall

9th Floor

Boston, MA 02201

Re: 33 Arch Street (the "Project")

Ladies and Gentlemen:

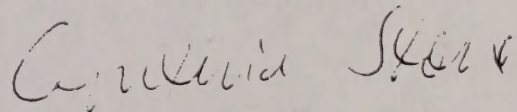
As director of the Old South Meeting House on the corner of Milk and Washington Streets in downtown Boston, which is owned and operated by the Old South Association, I have been asked to comment on the proposed office tower at 33 Arch Street, approximately a half block away from the Meeting House. The Old South Meeting House, built in 1729, is a National Historic Landmark, one of the country's most significant colonial buildings, and a key site on the Freedom Trail due to its important role in the American Revolution. The Meeting House is also one of the few operating cultural institutions in the Midtown Cultural District, functioning as a historic site, a museum of American History and a performance space for lectures, concerts, school programs and theatrical events. Our exhibits and programs have attracted an average of 80,000 visitors each year.

Because of the age and historic importance of the Meeting House and the historical artifacts housed inside, the building is extremely susceptible to construction and permanent impacts from the proposed Project. We have reviewed the Project's Draft Project/Environmental Impact Report, and have met with the Project proponent and BRA officials to review changes to the Project design since this draft report. The BRA staff has been extremely supportive in seeing that our concerns are addressed. We are pleased that the BRA staff has recommended that Old South receive a portion of the cultural benefit contribution required for the Project under Article 38 of the Boston Zoning Code. We are pleased to note that the current Project design located the proposed office tower on the portion of the site facing Arch Street, farther away from Old South. We remain extremely concerned, however, about the impacts of this proposed large-scale development on Old South.

Chairman and Members
Boston Redevelopment Authority Board
September 13, 1990
Page 2

The Project proponents have orally agreed to enter into a Cooperation Agreement directly with the Old South Association which commits the proponent to study specific impacts and undertake specific mitigation measures for the benefit of Old South. To insure that the proponent follow through on this commitment, we urge you to condition any approval granted today on the proponent entering into a mutually satisfactory Cooperation Agreement with the Old South Association.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Cynthia Stone".

Cynthia Stone
Director

cc: Brian DeLorey
Juan Loveluck
Matthew J. Kiefer, Esq.

